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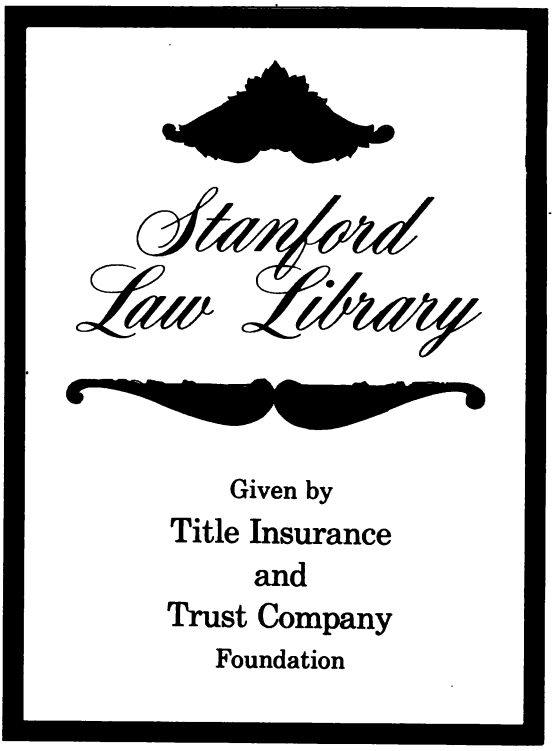

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THE

SETTLED LAND ACT, 1882.

WITH NOTES,

AND

FORMS AND PRECEDENTS ADAPTED FOR USE UNDER THE ACT,

AND RULES.

BY

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LONDON:
WILLIAM CLOWES AND SONS, LIMITED,
27, FLEET STREET.
1883.

LONDON:
PRINTED BY WILLIAM CLOWES AND SONS, LIMITED,
STAMFORD STREET AND CHARING CROSS.

F. S. & C. DAUNCEY
SOLICITORS,
Newport, Mon.

TO THE

RIGHT HONOURABLE HUGH McCALMONT EARL CAIRNS

THIS WORK IS RESPECTFULLY

Dedicated

BY THE AUTHORS.

PREFACE.

THE Bill for the Settled Land Act, was one of three Bills introduced in the House of Lords in February, 1880, by Earl Cairns, then Lord Chancellor; the other two being the Bills for The Conveyancing and Law of Property Act, 1881, and The Solicitors Remuneration Act, 1881, both of which became law in the Session of 1881.

All the three Bills were read a second time in March, 1880, but their further progress was prevented by the dissolution of Parliament in the same month. After the assembling of the new Parliament in May, 1880, all three Bills, with improvements, were again introduced in the House of Lords by Lord Cairns (who had then ceased to be Lord Chancellor), and were passed through that House and sent down to the House of Commons, but there dropped.

In the Session of 1881 the three Bills, with further improvements, were re-introduced by Lord Cairns in the House of Lords, passed that House, and were sent down to the House of Commons. There the Settled Land Bill was not allowed to go before a Committee, but the other two Bills were passed.

In the Session of 1882 The Settled Land Bill was once more introduced by Lord Cairns in the House of Lords together with the Bill for the Conveyancing Act, 1882. The Bills passed that House, and early in the Session were sent down to the House of Commons, but were only referred to a Select Committee so late as the

6th of June. During the short remainder of the Session the Committee devoted much time to the details of both Bills, and did not finish their labours till the last days of July.

The principal amendments made in the Settled Land Bill were, the insertion of the power to invest capital money on Railway Debenture Stock, s. 21 (i); the power to sell heirlooms, s. 37; the power to sell land settled by way of trust for sale, s. 63; the transfer from the Conveyancing Bill of the clauses amending the Improvement of Land Act, 1864 (s. 30), and as to the Land Commissioners (ss. 48, 49), and the omission of a clause enabling the representatives of a tenant for life to have after his death a charge for money expended in improvements. Several other amendments and additions of minor importance were also made. In consequence of these alterations the Bill, after passing through Committee, ought to have been again revised, but the adjournment of both Houses till October was expected to take place in a few days, and it was not considered advisable to incur the risk of losing the Bill by delay. As amended it was passed through the House of Commons and sent back, along with the Bill for the Conveyancing Act, 1882, to the House of Lords, where all the amendments were agreed to, and the two Bills received the Royal Assent on the 10th of August.

The Settled Land Act, taken in connection with The Conveyancing and Law of Property Act, 1881, will have an important effect in reducing the length of documents and abstracts. Settlements by deed or will may now contain only the clauses directing how the estate is to devolve, the charge of jointures (now much shortened), the charge of portions, and any other special provisions applicable to the particular case. Increased security will also be afforded in titles, which in future will depend on the exercise of statutory powers of disposition con-

stantly used, and therefore coming in time to be well understood, instead of on powers, the terms of which vary in each particular case, and sometimes are neither complete nor clear, therefore requiring careful consideration. The statutory powers conferred by the Act are to a great extent the same in effect as those usually hitherto inserted in well drawn settlements, but rather more full, and they are given not to trustees, as under the old practice, but to the person in possession as tenant for life or owner of some other limited estate—an important change, affording facility for dealings with land without the necessity for satisfying trustees as to the propriety of each transaction.

LINCOLN'S INN,
6th January, 1883.

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SETTLED LAND ACT, 1882.

PART I.

CHAPTER I.

GENERAL SUMMARY OF THE PROVISIONS OF THE ACT.

General purpose of Act.

THE general purpose of the Settled Land Act is to give to an owner for the time being, having a beneficial interest in land under a settlement, whether the subject of settlement be an estate in fee simple or a less estate, power to dispose of or deal with the land or the estate or interest therein which is settled, so as to turn it to the best account, in the same manner as if he were a prudent owner absolutely entitled to the subject-matter of the settlement, and having complete power of disposition; care being at the same time taken to preserve the *corpus* of the property for the benefit of the successors in title of the owner for the time being.

Commencement.

Part I. of the Act provides that the Act is to commence after the expiration of the year 1882, and is not to apply to Scotland. Part II. gives a definition of the word "settlement," which is to include past as well as future settlements, and of the words "settled land." Sect. 2 includes not only the fee simple when the fee simple is the subject-matter of settlement, but any estate or interest in land which is the subject of a settlement: s. 2 (3).

Powers to whom given.

The scheme of the Act is first to give all the necessary powers to a tenant for life under a settlement, tenancy for life being the most usual form of limited ownership, and then, by s. 58, the powers so given are extended to those

other forms of limited ownership which are generally considered to place a person in the position of a landowner; ss. 60-62 provide for the special cases where the limited owner is an infant, a married woman, or a lunatic.

The powers of the Act are conferred on a tenant for life "beneficially entitled to possession" of the land: s. 2 (5); and "possession" includes receipt of income or rents and profits, so that a tenant's lease does not prevent a tenant for life from being in possession within the meaning of the Act: s. 2 (10) (i.). The Act (s. 63) contains a separate provision for the case of a tenant for life not entitled to rents and profits as such, but still entitled under a settlement by way of trust for sale to the income of the land until sold, as representing the income to be derived from the proceeds of sale.

Resort to the Court.

Where resort to the Court is necessary, as must occasionally happen, the Court prescribed is the High Court of Justice (s. 2 (10) (ix.)), Chancery Division (s. 46), but jurisdiction is also given to County Courts (s. 46 (10)) in the case of land, money, investments, or chattels not exceeding £500 in capital value, or, in the case of land, not exceeding £30 in annual rateable value.

Nature of powers.

The powers conferred by the Act include all powers usually inserted in settlements of real estate, and also many additional special powers not generally found in settlements; but unlike the powers usually conferred by a settlement for dealing with the *corpus* of an estate, the powers conferred by the Act can in every case be exercised by the tenant for life, or other person in the same position as a tenant for life, at his own discretion, thus obviating the necessity for obtaining the concurrence or consent of trustees, which sometimes operates as a hindrance to the exercise of settlement powers. Where there is no competent person holding the position of a tenant for life, then the powers of the Act are exercisable by trustees, and it is always possible to obtain the appointment of trustees where there is any one interested in making an application to the Court for the purpose.

Preservation of capital.

To secure preservation of the capital money arising on

a sale or otherwise, the tenant for life has a choice (s. 22) to procure the money to be paid either to trustees or into Court; but neither these trustees nor the Court have any voice in the mode or terms of the sale; they are only called into action after the sale is effected, and then only for the purpose of acting as depositaries of the proceeds of sale until applied in a manner authorized by the Act. Where there are trustees of the settlement, or where trustees can be procured to act for the purpose of receiving capital money, or where there is no money to be received, as on a simple exchange or a lease, resort to the Court is not necessary. If there be trustees of the settlement who refuse to receive capital money, the Court can appoint other trustees for the purposes of the Act (s. 38), so that, unless specially desired, payment into Court of capital money can generally be avoided; but in every case, unless otherwise provided in the settlement, there must be at least two trustees, either appointed by the settlement or otherwise, or one trustee only if the settlement so permits, upon whom notice is to be served (s. 45). The existence of these two trustees, or a sole trustee, where permitted by the settlement (though they or he may be wholly passive), is necessary before the tenant for life can properly make any disposition under the Act. As no trustee of the settlement incurs any personal responsibility, except for the safe custody of money which he actually receives (s. 42), there can in general be no difficulty in procuring persons to act.

Reinvestment.

The same principle applies to the application, on a reinvestment or otherwise, of money in hand representing corpus. Where land is purchased or any other investment made, the trustees have no voice in making the purchase or investment. They are bound to pay the purchase-money or make the investment by direction of the tenant for life (s. 22 (2)), and are not in any way responsible for the propriety of the purchase or of any other investment, provided it appears to be within the terms of the Act or the settlement (s. 42). Where capital money is to be applied for improvements authorized by

the Act, the application may be either on consent of the trustees or of the Court (s. 26), and where the consent of the trustees is required they are freed from responsibility by a certificate of the Land Commissioners or of a competent engineer or able practical surveyor, or by an order of the Court (s. 26, (2)), so that the responsibility of trustees is confined to seeing that any given transaction appears on the face of it to be a transaction authorized by the Act. They are free from all liability in respect to the propriety of the transaction, except where they approve a scheme for the execution of improvements under s. 26, on which, as a matter of course, they would obtain proper professional advice, and thereby practically free themselves from liability.

The particular powers conferred by the Act are as follows:—

What powers given.

Part III. of the Act enables dispositions of land by Sale, Enfranchisement, Exchange, or Partition. Part IV. enables the grant of various leases for agricultural, mining, and building purposes, of the kinds usually authorized by settlements, and also enables other grants in the nature of leases to be made with the consent of the Court. Part V. contains general provisions applicable to any of these modes of disposition and to the case of a settlement of an undivided share of land, but it requires any sale or lease of the principal mansion house and demesnes, and any lands usually occupied therewith, to be made with the consent of the trustees of the settlement or the Court.

Application of capit

Part VI. provides for the application of capital money when the object is to re-invest it in land or securities. The power to re-invest includes application in payment of incumbrances, redemption of land-tax and quit rents, purchase of tithe rent-charge, and interim investment, and in the case of interim investment includes, besides those investments which trustees are authorized by law to make, an investment on the bonds, mortgages, or debentures, and in the debenture stock of any railway company in Great Britain or Ireland incorporated by special

Act of Parliament, and having for ten years previously paid a dividend on its ordinary stock. Besides the modes of investment specified in the Act any other investment authorized by the settlement may be made (s. 21 (xi.)). An investment in land out of England or Wales cannot be made with money arising from sale of land in England or Wales unless expressly authorized by the settlement (s. 23.)

Improvements.

Part VII., taken with s. 21 (iii.), provides for the application of capital money in effecting improvements on the unsold portion of an estate. The list of improvements authorized is very large and seems to include all improvements more or less permanent which a prudent owner would wish to effect. By s. 30 the improvements to which the Improvement of Land Act, 1864, applies, are extended so as to include all improvements mentioned in this Act, thereby enabling money to be borrowed under that Act for all the improvements specified in this Act. The mode of procedure under the Act of 1864 is also simplified (s. 64 and schedule). Some kinds of improvement, as laying down to permanent pasture, are omitted on the ground that when made they would be liable to immediate re-conversion into income. By s. 28 the tenant for life is put under an obligation to maintain and keep in repair improvements, but there may sometimes be no one inclined to enforce the obligation.

Contracts.

Part VIII. enables the tenant for life by contract to bind his successor in respect to all dealings capable of being effected under the Act, so that where time is required to complete a transaction, as in case of an agreement to grant of building leases, the person dealing with the tenant for life is made as safe by a mere contract as if he were dealing with an owner in fee simple.

Other capital money.

Part IX. contains provisions as to special cases of money representing capital, namely, money in Court or in the hands of trustees arising from dealings otherwise than under this Act; money arising from sales of reversions, or limited interests, or from sale of timber; money required for protection of the estate by legal proceedings;

and money arising by sale of heirlooms, the sale of which is enabled by the Act (s. 37).

Duties, &c., of trustees.

Part X. deals with the duties and liabilities of trustees. The protection afforded to a trustee is very full. His only active duties are—to approve a scheme for improvements (s. 26), to receive or pay money, and by direction of the tenant for life (s. 22 (2)) to make interim or other investments. He is not bound to take proceedings in reference to any dealing of which notice is given to him. He is safe in acting as regards the execution of a scheme on a certificate of the Land Commissioners, or of a competent engineer, or able practical surveyor, or on an order of the Court (s. 26 (2)); he is also safe in adopting any contract under the Act made by a tenant for life for purchase, enfranchisement, exchange, partition, or lease, and in accepting any conveyance appearing correct on the face of it, and in paying by direction of the tenant for life any money appearing to be paid in accordance with the Act (s. 42), or which in the case of improvements is authorized by the proper certificate or by order of Court.

Procedure.

Part XI. deals with procedure before the Court, to which applications may be made either by petition or by summons, and the Court is enabled to direct payment of costs and expenses and the raising of the amount out of the settled land.

Powers not capable of restriction.

The general effect of Part XII. is that the powers of the Act are personal to the tenant for life under the settlement. He cannot contract himself out of the Act, nor can he transfer his powers to any one else, but he cannot exercise them so as to defeat a purchaser or mortgagee deriving title under him, except that, as against his own assignee, his powers of leasing at the best rent without fine continue so long as he remains in possession. Nor (s. 51) can the settlor insert in the settlement any provisions tending to prevent a tenant for life from exercising the powers conferred by the Act. But though the settlor cannot restrict, he may (s. 57) enlarge these powers. He may, for instance, make unnecessary the notice to trustees of any intended dealing, or extend the powers of

leasing, or the purposes for which capital money may be applied. All additional powers take effect as if conferred by the Act, so that there will be only one uniform mode of exercising settlement powers.

To whom powers given.

Part XIII. specifies the several persons who, as well as tenants for life, are to have the powers given by the Act to a tenant for life, and it may be said generally that all owners of an estate less than the fee simple are here included, except a dowress and a lessee at a rent, including even tenants in tail who by Act of Parliament are precluded from barring their estates tail, but except tenants in tail of estates purchased with money granted for the purpose by Parliament.

Disabilities.

Part XIV. provides for the case of limited owners under the disability of infancy, coverture, or lunacy. Part XV. provides for the case of settlements by way of trust for sale where the tenant for life is entitled to the income of the proceeds of sale, and not to the possession or income of the land as such. Part XVI. deals with repeals, and Part XVII. with the application of the Act to Ireland.

General result.

From this short sketch of the contents of the Act, it will be seen that, except in the particular case of estates purchased with a Parliamentary grant of money, and except the sale or lease of the principal mansion-house and demesnes and lands usually occupied therewith, to which the consent of the trustees of the settlement or of the Court is required, every space of land in England, Wales, and Ireland, to the income of which any person in his private capacity is entitled as beneficial owner, may now at his sole will be sold or otherwise dealt with by him in nearly every mode in which a prudent owner would wish to deal, except that he cannot appropriate to his own use money representing capital. It can now no longer be fairly alleged that by reason merely of the existence of family settlements, land is prevented from being utilised by means of sale or lease for the benefit of the general public. What will be the effect of this great change in the law, it is impossible at present to foretell.

It requires, however, to be supplemented by a further change. The powers, given to an individual in his private capacity, should be given to him also in a corporate capacity. There is no reason why the rector more than the squire, should be tied to his land if he wishes to sell. The rector *in futuro* has certainly not a more clearly vested right than the next remainderman under a settlement, and the rector in possession, having no personal interest in his successor, is less likely to improve the land than an ordinary tenant for life. If the powers of the Act are beneficial to the public, they should be conferred in one case as well as the other. Further, the land of all public and charitable corporations, such as Ecclesiastical Corporations, including the Ecclesiastical Commissioners, Municipal Corporations, and all trustees for charitable purposes (by means of whose ownership a large amount of land is held on, what are in fact, trusts in perpetuity), should be compulsorily sold within a given time, retaining only so much as may be necessary for the purposes of the particular institution, as the site of a hospital or school. This would be merely a return to the ancient, rigorous, and right policy of the law against the "dead hand." In very few cases would the objects of a charitable or public trust be injured in the present. The income of the proceeds when invested would generally be greater than the income of land sold, and the possible increase in the value of the land for the benefit of the trust is clearly not a matter to be taken into consideration as opposed to the general interest of the Public.

Corporations and charities.

CHAPTER II.

45 & 46 VICT. c. 38.

An Act for facilitating Sales, Leases, and other dispositions of Settled Land, and for promoting the execution of Improvements thereon. [10th August 1882.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I.—PRELIMINARY.

PRELIMINARY.

Short title; commencement; extent.

1.—(1.) This Act may be cited as the Settled Land Act, 1882.

(2.) This Act, except where it is otherwised expressed, shall commence and take effect from and immediately after the thirty-first day of December one thousand eight hundred and eighty-two, which time is in this Act referred to as the commencement of this Act.

(3.) This Act does not extend to Scotland.

II.—DEFINITIONS.

DEFINITIONS.

Definition of settlement, tenant for life, &c.

2.—(1.) Any deed, will, agreement for a settlement, or other agreement, covenant to surrender, copy of court roll, Act of Parliament, or other instrument, or any number of instruments, whether made or passed before or after, or partly before and partly after the commencement of this Act, under or by virtue of which instrument or instruments any land, or any estate or interest in land, stands for the time being limited to or in trust for any persons by way of succession, creates or is for

S. 2. DEFINITIONS.

purposes of this Act a settlement, and is in this Act referred to as a settlement, or as the settlement, as the case requires.

Settlement.

The definition of "settlement" here given is rather more full than that in the Settled Estates Act, 1877 (s. 2), but is in effect the same, except the words in that Act "including any such instruments affecting the estates of any one or more of such persons exclusively." The omitted words might have enabled an estate for life or other partial interest under a settlement to be sold separately. The effect of the definition in this Act appears to be that all the instruments engrafted on the settlement of a given interest must be taken as forming part of one settlement. Thus a disentail and resettlement of a remainder in tail would form with the original settlement, one settlement. But it is conceived that where two undivided shares are originally settled by separate deeds, the two deeds do not form one settlement.

vide 'In re Nimmo's Settled Estates.' 28 Sol. Jour. p. 738.

What is succession.

It is not necessary that all the limitations should be actually created by the instrument. It is sufficient that "under or by virtue of" the instrument, the land, or any estate or interest in it, stands limited to or in trust for any persons *by way* of succession. Thus a settlement within the meaning of the Act is created by conveyance on marriage, to the use of the husband for life, with remainder to secure a jointure or portions, whether there is an express remainder in fee to the settlor or the fee results to the settlor. So also a settlement is created by a devise to A. for life, where the remainder in fee descends by lapse or otherwise to the testator's heir-at-law. This is made clear by sub-s. 2. But in the case first put, when the tenant for life is dead the remainder in fee becomes an estate in possession subject to the charge of jointure and portions, and the land then ceases to be "for the time being limited to or in trust for any persons by way of succession," and if the owner in fee desires to sell free from the charges, he can do so under The Conveyancing Act, 1881, s. 5. But the land of an infant is throughout the infancy settled land (s. 59 of this Act).

Alternative gifts.

An alternative limitation in fee creates an estate by way of succession (s. 58 (ii.)), but a devise in fee to trustees on trust for persons not ascertained, and taking only on a future event, would not (*Re Burdin*, 28 L. J. (Ch.) 840), at least where the devise carries the whole beneficial interest (see *Genery* v. *Fitzgerald*, Jac. 468, 1 Jarman on Wills, 653, 4th Ed.) Where the intermediate estate (as under a devise to A. in fee simple on the death of B.) descends, the case would be within s. 2 (2), taken along with s. 58 (ii.)

The settlement need not be a legal settlement perfected by transfer of the legal estate. "Agreement" and "covenant to surrender" are expressly mentioned in s. 2 (1), and these bind the equitable "interest in the" land, s. 2 (3).

(2.) An estate or interest in remainder or reversion not disposed of by a settlement, and reverting to the settlor or descending to the testator's heir, is for purposes of this Act an estate or interest coming to the settlor or heir under or by virtue of the settlement, and comprised in the subject of the settlement.

An instance where this s. applies is a devise to A. for life, there being either no devise of the remainder in fee, or a devise which lapses. This remainder is made an estate coming to the heir by virtue of the settlement. The settlement, therefore, creates a succession.

(3.) Land, and any estate or interest therein, which is the subject of a settlement, is for purposes of this Act settled land, and is, in relation to the settlement, referred to in this Act as the settled land.

"Land."

It is important to notice the effect of this clause. "Land" in all Acts of Parliament, unless there are words to restrict the meaning, means "messuages, tenements, and hereditaments, houses and buildings *of any tenure*:" 13 & 14 Vict. c. 21, s. 4. Therefore leaseholds and copyholds, as well as freeholds, are included under the word land (compare *Wilson* v. *Eden*, 16 Beav. 153). By sub-s. (1) the settlement comprises the instrument or instruments under which land (*i.e.*, fee simple, copyhold, or leasehold) or any estate or interest in land (*i.e.*, in fee simple, copyhold, or leasehold) is settled, and by this sub-s. land (*i.e.*, the fee simple, the customary estate, or the term in land as the case may be), and any estate or interest (in the fee simple, customary, or leasehold estate) *which is the subject* of the settlement is referred to in the Act as the settled land. Only that estate which is the subject of the settlement is included under the term "settled land." Therefore a power given to lease the settled land is a power to lease the interest settled. In the case of settled leaseholds, for instance, it does not enable a lease to be made binding on the reversioner in fee, nor in the case of copyholds, a lease contrary to the custom, nor in the case of an equity of redemption (that is a settlement of land subject to a mortgage) does it enable a lease to be made binding on the mortgagee further than the original mortgagor could either under the Conveyancing Act (s. 18) or otherwise have bound such mortgagee. In all cases "the settled land" means the fee simple, if that is settled; it means the equity of redemption, if that is settled; it means the customary estate if copyholds are settled; and the estate for a term of years or lives, if leaseholds for years or lives are settled. The powers conferred by the Act only bind persons deriving title under the settlement, and not any person having a title paramount to the

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settlement. This is plainly seen on considering the force given to a conveyance by s. 20, *post*.

(4.) The determination of the question whether land is settled land, for purposes of this Act, or not, is governed by the state of facts, and the limitations of the settlement, at the time of the settlement taking effect.

(5.) The person who is for the time being, under a settlement, beneficially entitled to possession of settled land, for his life, is for purposes of this Act the tenant for life of that land, and the tenant for life under that settlement.

Tenant for life.

This definition taken in connection with sub-s. 10 (i.) and s. 58 (1) (vi.) and (ix.) includes all equitable tenants for life, whether of the entirety or of an undivided share, and whether they are entitled or not to be let into possession, and the effect of the Act is that a mere equitable tenant for life can convey the legal estate vested under the settlement in a trustee, that estate being the subject of the settlement (see s. 2 (3)). As to the meaning of "possession," see sub-s. (10) (i.)

(6.) If, in any case, there are two or more persons so entitled as tenants in common, or as joint tenants, or for other concurrent estates or interests, they together constitute the tenant for life for purposes of this Act.

Two or more.

The effect of this sub-s. is that all persons having concurrent interests *under the same* settlement must join. It would be improper, for instance, to allow a tenant for life of one undivided moiety, to sell that moiety alone; he must join with the tenant for life of the other moiety in selling the whole, but cannot be compelled to join: *Camden* v. *Murray*, 16 Ch. D. 161. But if each undivided moiety is settled separately then neither moiety is the subject of the settlement made of the other moiety; each moiety is in itself settled land, and can be sold by the tenant for life thereof without the concurrence of the owner of the other: sub-ss. 3 and 10 (i.).

Undivided shares.

It would seem also that under this sub-section where two undivided shares are comprised in the same settlement, and one has become disentailed and vested in an owner in fee, while the other share is still the subject of a tenancy for life, the tenant for life of the settled share cannot sell that share without the concurrence of the owner in fee of the other share.

(7.) A person being tenant for life within the foregoing definitions shall be deemed to be such notwithstanding

that, under the settlement or otherwise, the settled land or his estate or interest therein, is incumbered or charged in any manner or to any extent.

Who has the powers.

The powers conferred by the Act are given to the person who, under the settlement, is in the position of beneficial owner for life, subject to all charges or incumbrances, whether that ownership produces any fruit or not, and he cannot divest himself of the powers (see s. 50 (1)). But the rights of an assignee for value cannot be defeated (s. 50 (3)), and his concurrence in the disposition is necessary, except to the grant of a lease under the Act where no fine is taken (s. 50 (3)), unless the assignee is in possession, and then his concurrence is also necessary to the granting of leases.

(8.) The persons, if any, who are for the time being, under a settlement, trustees with power of sale of settled land, or with power of consent to or approval of the exercise of such a power of sale, or if under a settlement there are no such trustees, then the persons, if any, for the time being, who are by the settlement declared to be trustees thereof for purposes of this Act, are for purposes of this Act trustees of the settlement.

Trustees of past settlements.

In settlements made before the passing of the Act, those persons only are trustees for the purposes of the Act who under the settlement have power of sale or power of consent to or approval of a sale. No other trustees are trustees within the Act. If there be no such trustees or no power of sale, or if there be trustees but they refuse to act, it is necessary to procure the appointment of trustees under s. 38.

Under such settlements any sale, lease, &c., may be made in exercise either of the powers of the settlement or of the powers of the Act. If the Act be resorted to the trustees with power of sale under the settlement, or the trustees appointed under s. 38, are the trustees for the purposes of the Act.

If for any reason it is preferred to make any sale, &c., under the powers of the settlement and not under the Act, the money received and liable to be re-invested in land, will nevertheless be applicable in the same manner as if it arose under the Act (s. 33).

Powers in future settlements.

In all future settlements the proper course is expressly to appoint trustees for the purposes of the Act. In such settlements it will be unnecessary to insert any powers similar to those contained in the Act; but in some special cases larger powers may be required, and when contained in a settlement will operate under s. 57 as if conferred by the Act, so that all the powers conferred by the Act and the

S. 2.
DEFINITIONS.
Single trustee.

settlement taken together will operate as powers conferred by a single instrument, namely, the Act.

By s. 39 (2) the expression "the trustees of the settlement" is made applicable to the surviving or continuing trustees or trustee of the settlement for the time being, but this is subject to the preceding sub-s., which prohibits payment of capital money to fewer than two persons as trustees, unless authorized by the settlement.

If it is intended to authorize the payment of capital money to a single trustee, as was usual in settlements before the Act, future settlements must expressly give the authority.

(9.) Capital money arising under this Act, and receivable for the trusts and purposes of the settlement, is in this Act referred to as capital money arising under this Act.

As to what is capital money arising under this Act see Part II. chap. I. *infra*.

(10.) In this Act—

(i.) Land includes incorporeal hereditaments, also an undivided share in land; income includes rents and profits; and possession includes receipt of income:

(ii.) Rent includes yearly or other rent, and toll, duty, royalty, or other reservation, by the acre, or the ton, or otherwise; and, in relation to rent, payment includes delivery; and fine includes premium or fore-gift, and any payment, consideration, or benefit in the nature of a fine, premium, or fore-gift:

(iii.) Building purposes include the erecting and the improving of, and the adding to, and the repairing of buildings; and a building lease is a lease for any building purposes or purposes connected therewith:

(iv.) Mines and minerals mean mines and minerals whether already opened or in work or not, and include all minerals and substances in, on, or under the land, obtainable by underground or by surface working; and mining purposes include the sinking and searching for, winning, working, getting, making merchantable, smelting or otherwise converting or working for the purposes of any manufacture, carrying away, and disposing of mines and minerals, in or under the settled land, or any other

land, and the erection of buildings, and the execution of engineering and other works, suitable for those purposes; and a mining lease is a lease for any mining purposes or purposes connected therewith, and includes a grant or licence for any mining purposes:

(v.) Manor includes lordship, and reputed manor or lordship:

(vi.) Steward includes deputy steward, or other proper officer, of a manor:

(vii.) Will includes codicil, and other testamentary instrument, and a writing in the nature of a will:

(viii.) Securities include stocks, funds, and shares:

(ix.) Her Majesty's High Court of Justice is referred to as the Court:

(x.) The Land Commissioners for England as constituted by this Act are referred to as the Land Commissioners:

(xi.) Person includes corporation.

III.—SALE; ENFRANCHISEMENT; EXCHANGE; PARTITION.

General Powers and Regulations.

3. A tenant for life—

(i.) May sell the settled land, or any part thereof, or any easement, right, or privilege of any kind, over or in relation to the same; and

Powers to tenant for life to sell, &c.

"Land" includes any "hereditament" (13 & 14 Vict. c. 21, s. 4), so that any beneficial easement or right attached to the settled land as a right of way to other land may be sold so as to extinguish it, as well as an easement burdening the settled land.

Meaning of land.

The sale, exchange, or partition of minerals and surface separately is provided for by s. 17; the raising of money to pay for equality of partition or exchange is provided for by s. 18. The principal mansion-house and the demesnes and lands occupied therewith cannot be sold or leased without consent of the trustees or the Court, s. 15; and s. 19 contains special provision for an undivided share.

Minerals.

The powers given by this section are more full than the usual settlement powers. The power to sell an easement, right, or privilege over land could not before 1881 (see Conveyancing Act, 1881, s. 62) be conferred under a settlement by conveyance to uses.

Easements.

S. 3.

SALE; ENFRANCHISEMENT; EXCHANGE; PARTITION.

General Powers and Regulations.

Under the ordinary power to sell land, and in the absence of an express clause for the purpose, the surface could not be sold apart from the minerals (see *Buckley* v. *Howell*, 29 Beav. 546), and it was difficult and sometimes legally impossible to provide for all the restrictions and conditions required on sales of building land and minerals. This section fully provides for all ordinary cases of sale, exchange, or partition. Further special powers may be added, and will take effect as if given by the Act, s. 57.

(ii.) Where the settlement comprises a manor,—may sell the seignory of any freehold land within the manor, or the freehold and inheritance of any copyhold or customary land, parcel of the manor, with or without any exception or reservation of all or any mines or minerals, or of any rights or powers relative to mining purposes, so as in every such case to effect an enfranchisement; and

Seignory.

The seignory of freehold land is an actual estate in fee simple left in the grantor after a subinfeudation to a freehold tenant made before the statute *Quia emptores*, and carrying with it the quit rents and services. When the tenant of the manor is a copyholder the fee simple estate is a reversion, the copyholder being in law a mere tenant at will. The effect of a conveyance of the seignory to the freehold tenant is necessarily to cause a merger of his tenure by subinfeudation in the seignory or estate of the superior, and thus to effect an enfranchisement, that is, an extinction of the services of the inferior.

(iii.) May make an exchange of the settled land, or any part thereof, for other land, including an exchange in consideration of money paid for equality of exchange; and

Tenure not material.

As "land" means land of any tenure, this sub-section includes a power to exchange freehold for leasehold or copyhold, and *vice versâ*.

(iv.) Where the settlement comprises an undivided share in land, or, under the settlement, the settled land has come to be held in undivided shares,—may concur in making partition of the entirety, including a partition in consideration of money paid for equality of partition.

See this sub-s. supplemented by s. 19.

Ancillary powers.

The following powers in the Act are ancillary to those conferred by this s.

(1.) To contract: s. 31.
(2.) To substitute securities: ss. 5, 24 (4).
(3.) To raise money for enfranchisement or for equality of exchange or partition: s. 18.
(4.) To concur in regard to undivided shares: s. 19.
(5.) To deal separately with surface and minerals: s. 17.
(6.) For trustees to receive, s. 22, and give receipts for money not paid into Court: s. 40.
(7.) To convey land disposed of: s. 20.
(8.) To settle land acquired: s. 24.

Notice of intention to sell, &c., must be given by the tenant for life under s. 45, but a person acting in good faith is exempted from inquiry whether notice has been given, s. 45 (3).

Regulations respecting sale, enfranchisement, exchange and partition.

4.—(1.) Every sale shall be made at the best price that can reasonably be obtained.

(2.) Every exchange and every partition shall be made for the best consideration in land or in land and money that can reasonably be obtained.

(3.) A sale may be made in one lot or in several lots, and either by auction or by private contract.

(4.) On a sale the tenant for life may fix reserve biddings and buy in at an auction.

(5.) A sale, exchange, or partition may be made subject to any stipulations respecting title, or evidence of title, or other things.

(6.) On a sale, exchange, or partition, any restriction or reservation with respect to building on or other user of land, or with respect to mines and minerals, or with respect to or for the purpose of the more beneficial working thereof, or with respect to any other thing, may be imposed or reserved and made binding, as far as the law permits, by covenant, condition, or otherwise, on the tenant for life and the settled land, or any part thereof, or on the other party and any land sold or given in exchange or on partition to him.

(7.) An enfranchisement may be made with or without a re-grant of any right of common or other right, easement, or privilege theretofore appendant or appurtenant

SS. 4, 5, 6.

SALE; ENFRANCHISEMENT; EXCHANGE; PARTITION.

to or held or enjoyed with the land enfranchised, or reputed so to be.

(8.) Settled land in England shall not be given in exchange for land out of England.

England.

"England" in Acts of Parliament includes Wales and the town of Berwick-on-Tweed (20 Geo. 2, c. 42, s. 3), but not in deeds or other documents.

Special Powers.

Special Powers.

Transfer of incumbrances on land sold, &c.

5. Where on a sale, exchange, or partition there is an incumbrance affecting land sold or given in exchange or on partition, the tenant for life, with the consent of the incumbrancer, may charge that incumbrance on any other part of the settled land, whether already charged therewith or not, in exoneration of the part sold or so given, and, by conveyance of the fee simple, or other estate or interest the subject of the settlement, or by creation of a term of years in the settled land, or otherwise, make provision accordingly.

Incumbrance.

"Incumbrance," within the meaning of this section includes a charge having priority to the settlement, although no money has been actually raised under it, but not a charge created by, or in exercise of any power in, the settlement, on which no money has been actually raised. The last mentioned charge is, but the other is not, overreached by the conveyance of the tenant for life under s. 20 (2). A substituted security on any other part of the settled land may be given under this section for any charge not overreached.

LEASES.

General Powers and Regulations.

IV.—LEASES.

General Powers and Regulations.

Power for tenant for life to lease for ordinary or building or mining purposes.

6. A tenant for life may lease the settled land, or any part thereof, or any easement, right, or privilege of any kind, over or in relation to the same, for any purpose whatever, whether involving waste or not, for any term not exceeding—

(i.) In case of a building lease, ninety-nine years:

(ii.) In case of a mining lease, sixty years:

(iii.) In case of any other lease, twenty-one years.

As before stated "land" includes land of any tenure (13 & 14 Vict. c. 21, s. 4), therefore this section applies to copyholds and leaseholds as well as freeholds, but by s. 2 (3) this Act applies only to "the estate or interest which is the subject of the settlement," and does not authorize the granting of any lease not warranted by that estate or interest. A tenant for life of leaseholds therefore cannot grant a lease extending beyond the term which is the subject of the settlement, nor can a copyholder grant a lease not warranted by custom or permitted by license.

Tenant for life's power of leasing.

On the same principle, though the powers of leasing given by this section to a tenant for life are properly larger than the powers given to a mortgagor by s. 18 of the Conveyancing Act, 1881, still as against a mortgagee prior to the settlement, only the powers given by s. 18 of that Act can be exercised. But the mortgagee of the tenant for life stands in no better position than the successors in title, except that as against him no lease at a fine can be made: s. 50 (3).

Larger than mortgagor's power.

Leases may be made by an equitable as well as the legal tenant for life, so as to create a legal term where the legal estate is the subject of the settlement, and the rent and the benefit of the covenants become annexed to and run with the legal reversion (Conveyancing Act, 1881, s. 10).

Lease by equitable owner.

7.—(1.) Every lease shall be by deed, and be made to take effect in possession not later than twelve months after its date.

Regulations respecting leases generally.

(2.) Every lease shall reserve the best rent that can reasonably be obtained, regard being had to any fine taken, and to any money laid out or to be laid out for the benefit of the settled land, and generally to the circumstances of the case.

"Month" means calendar month: 13 & 14 Vict. c. 21, s. 4.

Month.

"Rent" includes reservations in kind as well as money, s. 2 (10) (ii.)

Rent.

The value of a surrendered lease may be taken into account in fixing the rent of a new lease, s. 13 (5).

Value of surrendered lease.

Where at the date of the settlement the settled land is subject to leases containing a covenant for renewal on a fine, the tenant for life will be entitled to receive the fine for his own use. He is bound to grant the lease independently of this Act, and s. 12 (ii.) merely enables him to create a legal term without the aid of the Court. The fine is a casual profit similar to the fines and heriots payable to the lord of a manor (*Brigstocke* v. *Brigstocke*, 8 Chanc. Div. 357), but the case is different where a lease is originally granted under this section at a fine. The fine is then a sum taken from *corpus*, and s. 53 prevents

Fine.

SS. 7, 8.

LEASES.

General Powers and Regulations.

the tenant for life from exercising his powers to the prejudice of his successors. On the construction of a settlement, a tenant for life may be entitled to all fines (*Simpson* v. *Bathurst*, L. R. 5 Chanc. App. 193), and it is competent for a settlor to provide that fines should be either capital or income, and all future settlements should contain an express provision on this point.

(3.) Every lease shall contain a covenant by the lessee for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days.

(4.) A counterpart of every lease shall be executed by the lessee and delivered to the tenant for life; of which execution and delivery the execution of the lease by the tenant for life shall be sufficient evidence.

(5.) A statement, contained in a lease or in an indorsement thereon, signed by the tenant for life, respecting any matter of fact or of calculation under this Act in relation to the lease, shall, in favour of the lessee and of those claiming under him, be sufficient evidence of the matter stated.

A statement of fact, endorsed on a lease, and signed by the tenant for life, that money covenanted in the lease to be laid out by the lessee has been laid out accordingly, and a statement of calculation recited in a lease that the rent thereby reserved does not exceed one fifth part of the full annual value of the land comprised therein with the buildings thereon when completed (see s. 8 (3) (iii.)) are instances of statements within the meaning of s. 7 (5).

Building and Mining Leases.

Building and Mining Leases.

Regulations respecting building leases.

8.—(1.) Every building lease shall be made partly in consideration of the lessee, or some person by whose direction the lease is granted, or some other person, having erected, or agreeing to erect, buildings, new or additional, or having improved or repaired, or agreeing to improve or repair, buildings, or having executed, or agreeing to execute, on the land leased, an improvement authorized by this Act, for or in connection with building purposes.

(2.) A peppercorn rent or a nominal or other rent less

than the rent ultimately payable, may be made payable for the first five years or any less part of the term.

(3.) Where the land is contracted to be leased in lots, the entire amount of rent to be ultimately payable may be apportioned among the lots in any manner; save that—

(i.) The annual rent reserved by any lease shall not be less than ten shillings; and

(ii.) The total amount of the rents reserved on all leases for the time being granted shall not be less than the total amount of the rents which, in order that the leases may be in conformity with this Act, ought to be reserved in respect of the whole land for the time being leased; and

(iii.) The rent reserved by any lease shall not exceed one fifth part of the full annual value of the land comprised in that lease with the buildings thereon when completed.

Regulations respecting mining leases.

9.—(1.) In a mining lease—

(i.) The rent may be made to be ascertainable by or to vary according to the acreage worked, or by or according to the quantities of any mineral or substance gotten, made merchantable, converted, carried away, or disposed of, in or from the settled land, or any other land, or by or according to any facilities given in that behalf; and

(ii.) A fixed or minimum rent may be made payable, with or without power for the lessee, in case the rent, according to acreage or quantity, in any specified period does not produce an amount equal to the fixed or minimum rent, to make up the deficiency in any subsequent specified period, free of rent other than the fixed or minimum rent.

(2.) A lease may be made partly in consideration of the lessee having executed, or his agreeing to execute, on the land leased, an improvement authorized by this Act, for or in connection with mining purposes.

SS. 10, 11.

LEASES.

Building and Mining Leases.

Variation of building or mining lease according to circumstances of district.

10.—(1.) Where it is shewn to the Court with respect to the district in which any settled land is situate, either—

(i.) That it is the custom for land therein to be leased or granted for building or mining purposes for a longer term or on other conditions than the term or conditions specified in that behalf in this Act, or in perpetuity; or

(ii.) That it is difficult to make leases or grants for building or mining purposes of land therein, except for a longer term or on other conditions than the term and conditions specified in that behalf in this Act, or except in perpetuity;

the Court may, if it thinks fit, authorize generally the tenant for life to make from time to time leases or grants of or affecting the settled land in that district, or parts thereof, for any term or in perpetuity, at fee-farm or other rents, secured by condition of re-entry, or otherwise, as in the order of the Court expressed, or may, if it thinks fit, authorize the tenant for life to make any such lease or grant in any particular case.

(2.) Thereupon the tenant for life, and, subject to any direction in the order of the Court to the contrary, each of his successors in title being a tenant for life, or having the powers of a tenant for life under this Act, may make in any case, or in the particular case, a lease or grant of or affecting the settled land, or part thereof, in conformity with the order.

Part of mining rent to be set aside.

11. Under a mining lease, whether the mines or minerals leased are already opened or in work or not, unless a contrary intention is expressed in the settlement, there shall be from time to time set aside, as capital money arising under this Act, part of the rent as follows, namely,—where the tenant for life is impeachable for waste in respect of minerals, three fourth parts of the rent, and otherwise one fourth part thereof, and in every such case the residue of the rent shall go as rents and profits.

Where under this section a portion of the rent is to be set aside as capital money, the lessee must, it is conceived, pay it to the trustees or into Court. This has been the course taken in orders under the Settled Estates Acts of 1856 and 1877, which have usually directed payment to the trustees (Seton, 1490, 4th ed.). The trustees should be made parties to the lease, and their portion of rent should be made payable to them.

Rent set aside is payable to the trustees.

The portion of rent set aside under this section is in effect the consideration paid by the tenant for life for the privilege of granting the lease for sixty years. But the Act does not affect any of his common law rights, as tenant for life, to open and work mines if he is unimpeachable for waste, and to work open mines if he is impeachable for waste. In future settlements it will probably become the practice to provide expressly against capitalising any part of a mining rent, thus placing the tenant for life in the same position as under a settlement with the usual leasing powers.

The words "where the tenant for life is impeachable for waste in respect of minerals" do not apply to the case of a tenant for life of open mines. A tenant for life may work open mines although impeachable for waste (*Campbell* v. *Leach*, Amb. 740), consequently on a lease under the Act of such mines, one fourth only of the rent is required in any case to be set aside. The provision for setting aside is in effect the same as that in the Settled Estates Act, 1877 (40 & 41 Vict. c. 18, s. 4 (3)).

Impeachable for waste in respect of minerals.

Special Powers.

Special Powers.

12.—The leasing power of a tenant for life extends to the making of—

Leasing powers for special objects.

(i.) A lease for giving effect to a contract entered into by any of his predecessors in title for making a lease, which, if made by the predecessor, would have been binding on the successors in title; and

"Predecessors in title" includes all predecessors, those prior to as well as those under the settlement, "successor in title" is used in the same way in s. 31 (2).

(ii.) A lease for giving effect to a covenant of renewal, performance whereof could be enforced against the owner for the time being of the settled land; and

Where a testator who has contracted to grant a lease dies, having

SS. 12, 13.

LEASES.

Special Powers.

devised the property in settlement, or where the land is leased with a covenant for renewal, the tenant for life could not, except under an express power for the purpose, give the lessee a legal term without the aid of the Court, to be obtained in an action by the lessee for specific performance. In *Cust* v. *Middleton* (3 De G. F. & J. 33) an Act of Parliament was thought necessary in order to carry into effect the contracts of the testator in the case first mentioned.

The effect of sub-s. (i.) and (ii.) of this s. is to render an action unnecessary in either case.

(iii.) A lease for confirming, as far as may be, a previous lease, being void or voidable; but so that every lease, as and when confirmed, shall be such a lease as might at the date of the original lease have been lawfully granted, under this Act, or otherwise, as the case may require.

Where a lease is void for some want of compliance with the power, it may be impossible on account of building or improvements effected by the lessee to give him a valid lease on the terms to which he is justly entitled, the lease must be at the best rent and the improvements increase its amount. Sub-s. (iii.) enables the proper lease to be granted, adopting the principle of the Acts 12 & 13 Vict. c. 26, and 13 & 14 Vict. c. 17.

Surrenders.

Surrenders.

Surrender and new grant of leases.

13.—(1.) A tenant for life may accept, with or without consideration, a surrender of any lease of settled land, whether made under this Act or not, in respect of the whole land leased, or any part thereof, with or without an exception of all or any of the mines and minerals therein, or in respect of mines and minerals, or any of them.

Acceptance of surrender by equitable tenant for life.

This section appears to enable an equitable tenant for life having no legal reversion to accept a surrender of a term so as to merge it, just as s. 6 enables him to grant a lease creating a legal term, though he has no legal estate. He acts in each case under the statutory authority conferred by this Act.

Consideration for surrender.

Money paid to a tenant for life as the consideration for accepting the surrender of a lease belongs, as a general rule, to him absolutely. The rule is not expressly altered by this section, but will, it is conceived, still hold good as to all leases, whether made under the powers of the Act or otherwise, and notwithstanding the provisions of s. 53, this section being merely in affirmance of the common law right of

the tenant for life, and not conferring any new power (*a*). But it is conceived that where the surrender is one which an actual trustee would not be justified in accepting, the tenant for life could not retain for his own use the sum received (See note to s. 53). Thus, if there were a lease of five acres at £10 rent, and the tenant for life should under sub-s. (2) take a surrender of one acre, apportioning £9 as the rent of that acre, and leaving £1 only payable in respect of the other four acres, payment being made to him for so doing, this would be a clear breach of duty towards the remaindermen, and as the apportionment would be made under a power conferred by the next sub-s., it can scarcely be doubted that the tenant for life would be held liable as trustee for the sum received by him, and that it would be treated as capital money.

(2.) On a surrender of a lease in respect of part only of the land or mines and minerals leased, the rent may be apportioned.

(3.) On a surrender, the tenant for life may make of the land or mines and minerals surrendered, or of any part thereof, a new or other lease, or new or other leases in lots.

(4.) A new or other lease may comprise additional land or mines and minerals, and may reserve any apportioned or other rent.

(5.) On a surrender, and the making of a new or other lease, whether for the same or for any extended or other term, and whether or not subject to the same or to any other covenants, provisions, or conditions, the value of the lessee's interest in the lease surrendered may be taken into account in the determination of the amount of the rent to be reserved, and of any fine to be taken, and of the nature of the covenants, provisions, and conditions to be inserted in the new or other lease.

This sub-s. 5 enables the value of a lease beneficial to the lessee, which is surrendered, to be taken into account on the grant of a new lease, notwithstanding the old rule to the contrary referred to by Lord St. Leonards: See Sug. Powers 787, 8th ed.

(*a*) The bill, as originally introduced, contained a clause expressly giving to the tenant for life for his own use any sum received on surrender of a lease, but this was struck out by the Select Committee of the House of Commons.

SS. 13, 14, 15. LEASES.

(6.) Every new or other lease shall be in conformity with this Act.

Copyholds.

Copyholds.

Power to grant to copyholders licences for leasing.

14.—(1.) A tenant for life may grant to a tenant of copyhold or customary land, parcel of a manor comprised in the settlement, a licence to make any such lease of that land, or of a specified part thereof, as the tenant for life is by this Act empowered to make of freehold land.

(2.) The licence may fix the annual value whereon fines, fees, or other customary payments are to be assessed, or the amount of those fines, fees, or payments.

(3.) The licence shall be entered on the court rolls of the manor, of which entry a certificate in writing of the steward shall be sufficient evidence.

Fine on licence, whether capital.

If the licence be granted on a fine, the question whether the fine is capital or casual profit must be decided on the same principle as in case of a fine on an ordinary lease (see p. 19). If the licence is in accordance with the custom, the fine will be casual profit.

Effect of licence.

By a licence under this section it is conceived that the copyholder can only grant a lease in all respects the same as a tenant for life could grant under this Act. If this were not so, an onerous lease, at a large fine, might be granted, and the lord would be prejudiced in case of forfeiture or escheat.

Act does not override custom.

Where the lord is restricted by custom from granting licences to lease beyond a certain term, as in *Hanbury* v. *Litchfield* (2 My. & K. 629), this section will not enable him any more than a tenant in fee to override the custom, if the estate, the subject of the settlement, does not enable the licence. Notwithstanding the licence, a lease by the copyholder for a term longer than that allowed by the custom will be a forfeiture capable of being enforced by the next successor.

SALES, LEASES, AND OTHER DISPOSITIONS.

V.—SALES, LEASES, AND OTHER DISPOSITIONS.

Mansion and Park.

Mansion and Park.

Restriction as to mansion house, park, &c.

15. Notwithstanding anything in this Act, the principal mansion house on any settled land, and the demesnes thereof, and other lands usually occupied therewith, shall not be sold or leased by the tenant for life, without the consent of the trustees of the settlement, or an order of the Court.

Mansion and Park.

Meaning of mansion, &c.

This section, which was the subject of much discussion during the passage of the Bill, may in a few cases give rise to difficulty, but the following points seem reasonably clear. Only one mansion house on any settled land is within the restriction. Where there are two or more estates clearly distinct, though included in the same settlement, the principal mansion on each is within the restriction; the house on one estate cannot be said also to be on the other estate. Lands shewn to have been for many years farmed by tenants are clearly not within the restriction, but difficulty will occur sometimes as to woods kept in hand but within the boundary of a farm. They must until the contrary is decided be treated as within the restriction.

A residence and a few acres occupied therewith, and any house in London, must also, until the contrary is decided, be treated as within the restriction. The word "principal" does not probably imply that there must also be a "secondary" mansion, in order to bring the restriction into operation. But any difficulty can always be removed by the consent of the trustees or an order of the Court.

All future settlements should contain, as authorized by s. 57, an express provision either removing the restriction imposed by this section, or defining the house and land to which it applies.

Streets and open Spaces.

Streets and open Spaces.

Dedication for streets, open spaces, &c.

16. On or in connection with a sale or grant for building purposes, or a building lease, the tenant for life, for the general benefit of the residents on the settled land, or on any part thereof,—

(i.) May cause or require any parts of the settled land to be appropriated and laid out for streets, roads, paths, squares, gardens, or other open spaces, for the use gratuitously or on payment, of the public or of individuals, with sewers, drains, watercourses, fencing, paving, or other works necessary or proper in connection therewith; and

(ii.) May provide that the parts so appropriated shall be conveyed to or vested in the trustees of the settlement, or other trustees, or any company or public body, on trust or subject to provisions for securing the continued appropriation thereof to the purposes aforesaid, and the continued repair or maintenance of streets and other places and

S. 16.

SALES, LEASES, AND OTHER DISPOSITIONS.

Streets and open Spaces.

works aforesaid, with or without provision for appointment of new trustees when required; and

(iii.) May execute any general or other deed necessary or proper for giving effect to the provisions of this section (which deed may be inrolled in the Central Office of the Supreme Court of Judicature), and thereby declare the mode, terms, and conditions of the appropriation, and the manner in which and the persons by whom the benefit thereof is to be enjoyed, and the nature and extent of the privileges and conveniences granted.

Dedication to the public.

Dedication to the public is a term generally applied to the act of throwing roads open to the use of the public, but without the aid of this section an effectual dedication could only be made by an owner of the fee simple. A dedication by a leaseholder or tenant for life in right of his estate does not bind the reversioner or remainderman, *Wood* v. *Veal*, 5 B. & Ald. 454, *Harper* v. *Charlesworth*, 4 Barn. & C. 591. This section enables a tenant for life to bind those in remainder.

Different from conveyance.

A conveyance of land to trustees on trust for public purposes is not strictly a dedication to the public; it is the creation of a trust for charitable purposes (all public purposes being charitable purposes, see 1 Jarm. Wills 208, 4th ed.), and the deed of conveyance must be enrolled and otherwise perfected according to the provisions of the Act, 9 Geo. 2, c. 36. A conveyance to a local authority or corporation can only be made where they are empowered by statute to acquire the land. They then acquire it as their own property and not as trustees, and the Act of Geo. 2 does not apply. On a simple dedication to the public the freehold in the soil still remains in the owner of the fee simple (*R.* v. *Pratt*, 24 L. J. (M. C.) 113), unless by any statute affecting a particular locality it becomes transferred to a local authority. It is not necessary that a deed effecting a simple dedication to the public should be perfected as required by the Act of Geo. 2, it operates merely as evidence of the transaction, and not as a conveyance.

Conveyance to give effect to this section.

Sect. 55 (2) gives a general power to the tenant for life under which he may make any conveyance necessary for giving effect to the provisions of this section. Expenses incurred in executing works under this section may be raised by sale or mortgage under s. 21 of the Settled Estates Act, 1877.

Surface and Minerals apart.

Surface and Minerals apart.

17.—(1.) A sale, exchange, partition, or mining lease, may be made either of land, with or without an exception or reservation of all or any of the mines and minerals therein, or of any mines and minerals, and in any such case with or without a grant or reservation of powers of working, wayleaves or rights of way, rights of water and drainage, and other powers, easements, rights and privileges for or incident to or connected with mining purposes, in relation to the settled land, or any part thereof, or any other land.

Separate dealing with surface and minerals, with or without wayleaves, &c.

(2.) An exchange or partition may be made subject to and in consideration of the reservation of an undivided share in mines or minerals.

Under a power in a settlement easements could not formerly be granted as they could not be raised by way of use. This difficulty has been removed by the Conveyancing Act, 1881, s. 62; but no question of the kind can arise under this Act, which gives a common law power to convey the fee independently of the Statute of Uses. This s. effects the same object as the Confirmation of Sales Act of 1862 (25 & 26 Vict. c. 108), but without any necessity for obtaining the previous sanction of the Chancery Division.

Grant of easements.

Mortgage.

Mortgage.

18. Where money is required for enfranchisement, or for equality of exchange or partition, the tenant for life may raise the same on mortgage of the settled land, or of any part thereof, by conveyance of the fee simple, or other estate or interest the subject of the settlement, or by creation of a term of years in the settled land, or otherwise, and the money raised shall be capital money arising under this Act.

Mortgage for equality money, &c.

The money raised by mortgage under this section being capital money must be paid either to the trustees or into Court (s. 22). The receipt of the trustees is a complete discharge, and the person making the advance is absolved from seeing that it is necessary to raise the money (s. 40), or that the requirements of the Act are complied with (s. 54).

Undivided Share.

19. Where the settled land comprises an undivided share in land, or, under the settlement, the settled land has come to be held in undivided shares, the tenant for life of an undivided share may join or concur, in any manner and to any extent necessary or proper for any purpose of this Act, with any person entitled to or having power or right of disposition of or over another undivided share.

Undivided Share.

Concurrence in exercise of powers as to undivided share.

Conveyance.

Conveyance.

Completion of sale, lease, &c., by conveyance.

20.—(1.) On a sale, exchange, partition, lease, mortgage, or charge, the tenant for life may, as regards land sold, given in exchange or on partition, leased, mortgaged, or charged, or intended so to be, including copyhold or customary or leasehold land vested in trustees, or as regards easements or other rights or privileges sold or leased, or intended so to be, convey or create the same by deed, for the estate or interest the subject of the settlement, or for any less estate or interest, to the uses and in the manner requisite for giving effect to the sale, exchange, partition, lease, mortgage, or charge.

(2.) Such a deed, to the extent and in the manner to and in which it is expressed or intended to operate and can operate under this Act, is effectual to pass the land conveyed, or the easements, rights, or privileges created, discharged from all the limitations, powers, and provisions of the settlement, and from all estates, interests, and charges subsisting or to arise thereunder, but subject to and with the exception of—

(i.) All estates, interests, and charges having priority to the settlement; and

(ii.) All such other, if any, estates, interests, and charges as have been conveyed or created for securing money actually raised at the date of the deed; and

(iii.) All leases and grants at fee-farm rents or otherwise, and all grants of easements, rights of

common, or other rights or privileges granted or made for value in money or money's worth, or agreed so to be, before the date of the deed, by the tenant for life, or by any of his predecessors in title, or by any trustees for him or them, under the settlement, or under any statutory power, or being otherwise binding on the successors in title of the tenant for life.

(3.) In case of a deed relating to copyhold or customary land it is sufficient that the deed be entered on the court rolls of the manor, and the steward is hereby required on production to him of the deed to make the proper entry; and on that production, and on payment of customary fines, fees, and other dues or payments, any person whose title under the deed requires to be perfected by admittance shall be admitted accordingly; but if the steward so requires, there shall also be produced to him so much of the settlement as may be necessary to shew the title of the person executing the deed; and the same may, if the steward thinks fit, be also entered on the court rolls.

Easements, rights, and privileges.

The reference in this section to "easements or other rights or privileges sold or leased," applies to cases where they are conferred apart from the land, and created *de novo*, therefore no reference to partition or exchange is required. On partition or exchange there is a dealing with the settled land, and s. 17 enables the creation or reservation of easements, rights, or privileges for mining purposes, in connection with the settled, or any other, land.

Conveyance.

This section confers on the tenant for life a power, generally called a common law authority, as the exercise of it enables him to transfer the common law seisin (Sug. Powers 45, 8th ed.); but it is more properly a statutory power. The land passes not as in ordinary settlements by revocation and appointment of uses, but by conveyance of the estate itself in the land, in the same way as when a testator authorizes his executors to sell his lands without making any devise to them. The usual mode of exercising such a power in a will is by bargain and sale at common law (*i.e.* not a bargain and sale passing the use merely and requiring enrolment under 27 Hen. 8, c. 16).

How conveyance operates.

The conveyance under this s. passes the common law estate in the case of freeholds and leaseholds, and the right to admission in the case of copyholds, and that whether the person conveying has a legal

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SALES, LEASES, AND OTHER DISPOSITIONS.

Conveyance.

Rent, &c., annexed to reversion.

or equitable estate, and on the estate so passed in case of freeholds uses may be declared. Also in case of copyholds admittance may be had without any surrender, and the conveyance divests any legal estate vested in trustees by the settlement. On the grant of a lease the term created is a legal term, and the Conveyancing Act, 1881, ss. 10, 11, annexes the rent and covenants in every case to the legal reversion, notwithstanding that the lessor has no legal estate.

This Act only operates on the estate, the subject of the settlement, therefore the legal estate passes only where it passed under the settlement, and has not been subsequently disposed of to secure money actually raised. If there be a mortgage in fee outstanding prior to the settlement, or made since under a power, the legal estate conferred by the mortgage will not be overreached or defeated by a conveyance under this Act, but where a lease can be granted binding on the mortgagee under the Conveyancing Act, 1881, s. 18, a legal term will be created.

Estate of trustees.

It follows that where leaseholds or copyholds are vested in trustees on trusts corresponding to uses declared of land conveyed in fee simple, the trustees will not be necessary parties to convey; the conveyance by the tenant for life alone divests the estate of the trustees.

Enrolment of copyhold assurance.

As regards copyholds, sub-s. (3), the steward will enter on the rolls the settlement in the same manner as a will giving executors or trustees power to sell would be entered, and he will also enter the deed of conveyance. The rolls will thus be complete as regards the title.

What estates overreached.

A conveyance under this section will be similar in its overreaching-effect to a revocation of uses and re-appointment under a power in a settlement. The rights of lessees and incumbrancers are preserved,

Charges.

but the family charges, where not dealt with for securing money actually raised (see s. 20, sub-s. 2 (ii.)) will be displaced. Thus where there is a term for raising portions but no money has been raised, the term will be defeated in land sold or given in exchange or on partition, and the charge in the case of sale will be transferred to the proceeds of sale, and in case of exchange or partition, it will be transferred to the land taken on exchange or partition, but if the land has been mortgaged the mortgagee must concur to release, in order to give a complete title. Where a child is merely entitled to his portion on which no money has been raised, an assignee from him is in the same position as the child.

Power of trustees restricted.

Any possible conflict between a conveyance by the tenant for life and a conveyance by the trustees is prevented by the latter part of s. 56 (2), which precludes trustees from exercising powers similar to those given by the Act unless the tenant for life consents.

VI.—Investment or other Application of Capital Trust Money.

S. 21.

Investment or other Application of Capital Trust Money.

Capital money under Act; investment, &c., by trustees or Court.

21. Capital money arising under this Act, subject to payment of claims properly payable thereout, and to application thereof for any special authorized object for which the same was raised, shall, when received, be invested or otherwise applied wholly in one or partly in one and partly in another or others, of the following modes (namely):

(i.) In investment on Government securities or on other securities on which the trustees of the settlement are by the settlement or by law authorized to invest trust money of the settlement, or on the security of the bonds, mortgages, or debentures, or in the purchase of the debenture stock, of any railway company in Great Britain or Ireland incorporated by special Act of Parliament, and having for ten years next before the date of investment paid a dividend on its ordinary stock or shares, with power to vary the investment into or for any other such securities.

Securities authorized by law.

The power given by this s. to invest on railway security is a power not given by law to trustees in respect of other trust money. The securities on which trustees are by law authorized to invest other trust money are the following:

1. Consolidated 3 per cent. annuities.
2. Real securities in the United Kingdom, or stock of the Bank of England or Ireland, if not expressly forbidden: 22 & 23 Vict. c. 35, s. 32; 23 & 24 Vict. c. 38, s. 12; real securities in England or Wales, proper for investment by trustees, being first mortgages of fee simple or copyhold lands, and in Ireland first mortgages of fee simple lands, or of leaseholds for lives at a head rent perpetually renewable, and also of lands held under fee farm grants made pursuant to 12 & 13 Vict. c. 105, and 31 & 32 Vict. c. 62.
3. East India Stock created under Acts passed before the 20th August, 1867 (30 & 31 Vict. c. 132, s. 1), and under subsequent Acts, 32 & 33 Vict. c. 106, 36 & 37 Vict. c. 32, and 37 & 38 Vict. c. 3; and securities the interest of which is guaranteed by Parliament (30 & 31 Vict. c. 132, s. 2).

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INVESTMENT OR OTHER APPLICATION OF CAPITAL TRUST MONEY.

4. Reduced and New £3 per cent. and £2 10*s.* 0*d.* per cent. government annuities and Exchequer Bills, where trustees are authorized to invest in government or parliamentary securities (23 & 24 Vict. c. 38, s. 11, and Orders of the 1st of February, 1861).
5. Stock of the Metropolitan Board of Works: 34 & 35 Vict. c. 47, s. 13.
6. Charges under the Improvement of Land Act, 1864, or mortgages thereof, where trustees are authorized to invest in real securities: 27 & 28 Vict. c. 114, s. 60.

As this s. authorizes the investment of capital money in debentures or debenture stock of a railway, such capital money may also be invested in

7. Debentures or debenture stock of local authorities where they are issued under the Local Loans Act, 1875 (38 & 39 Vict. c. 83, s. 27), and not otherwise.
8. The special acts of many local authorities and corporations contain an express provision authorizing their debentures or stock to be taken by trustees. In all settlements therefore an investment should be authorized in specified securities "and not otherwise."

(ii.) In discharge, purchase, or redemption of incumbrances affecting the inheritance of the settled land, or other the whole estate the subject of the settlement, or of land-tax, rentcharge in lieu of tithe, Crown rent, chief rent, or quit rent, charged on or payable out of the settled land:

Incumbrance.

This sub-s. includes a mortgage for a long term which is one mode of mortgaging the fee simple, and "affects the inheritance," also a mortgage of leaseholds by subdemise, which is the usual mode of mortgaging leaseholds, and "affects the whole estate the subject of the settlement." An incumbrance on the estate of the tenant for life is excluded, and so is a terminable charge as a jointure rent-charge or a charge under the Public Money Drainage Act. Sect. 53 is alone sufficient to prevent a tenant for life paying off a charge of this kind out of capital.

(iii.) In payment for any improvement authorized by this Act:

(iv.) In payment for equality of exchange or partition of settled land:

(v.) In purchase of the seignory of any part of the

settled land, being freehold land, or in purchase of the fee simple of any part of the settled land, being copyhold or customary land:

(vi.) In purchase of the reversion or freehold in fee of any part of the settled land, being leasehold land held for years, or life, or years determinable on life:

The words "so as to merge the leasehold interest in the reversion," which were at the end of this sub-section in the Bill, were struck out by the Commons Select Committee on the ground probably that they confined the purchase to the immediate reversion, and it has been suggested as a consequence that the leasehold interest must vest in the first tenant in tail who attains twenty-one, while the reversion in fee devolves on the issue in tail or next remainderman. But the ordinary trust declared of settled leaseholds is such as will correspond with the uses of the freeholds as nearly as the different tenure and rules of law will allow. The best mode of complying with this trust is to surrender the term, not to keep it on foot. Further, this trust may properly be treated as making the term attendant on the inheritance of an immediate reversion when purchased, thereby causing the term to cease.

(vii.) In purchase of land in fee simple, or of copyhold or customary land, or of leasehold land held for sixty years or more unexpired at the time of purchase, subject or not to any exception or reservation of or in respect of mines or minerals therein, or of or in respect of rights or powers relative to the working of mines or minerals therein, or in other land:

(viii.) In purchase, either in fee simple, or for a term of sixty years or more, of mines and minerals convenient to be held or worked with the settled land, or of any easement, right, or privilege convenient to be held with the settled land for mining or other purposes:

(ix.) In payment to any person becoming absolutely entitled or empowered to give an absolute discharge:

Under this section money paid into Court may be paid out to trustees for the purpose of being invested or applied. They are (s. 40)

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{ Money paid to Trustees to be laid out in the purchase of land to be settled in Strict Settlement may be invested in Debentures of a Railway Company — In re Mackenzie's Trusts - 23 Ch. Div 760 -

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INVESTMENT OR OTHER APPLICATION OF CAPITAL TRUST MONEY.

"persons empowered to give an absolute discharge" within ss. 21, ix. & 40. This principle has been acted on in the case of money in Court under the Lands Clauses Act (*Hobson's Trusts*, 7 Ch. D. 708; *Re Evans* 14 *ib.* 511; *Re Gooch*, 3 *ib.* 742), which only authorizes payment to a person absolutely entitled, and does not contain the words "empowered to give an absolute discharge."

(x.) In payment of costs, charges, and expenses of or incidental to the exercise of any of the powers, or the execution of any of the provisions of this Act:

(xi.) In any other mode in which money produced by the exercise of a power of sale in the settlement is applicable thereunder.

Direction of tenant for life as to investment.

Every investment, or other application of capital money, must be made by the direction of the tenant for life (if any competent to act) (s. 22 (2) & (3)), and investments cannot be varied without his consent (ib. (4)). The sale of settled land can no longer be taken in any case to be for the purpose only of investment of the proceeds in the purchase of other land to be settled to the same uses. (See *Mortlock* v. *Buller*, 10 Ves. 309).

Regulations respecting investment, devolution, and income of securities, &c.

22.—(1.) Capital money arising under this Act shall, in order to its being invested or applied as aforesaid, be paid either to the trustees of the settlement or into Court, at the option of the tenant for life, and shall be invested or applied by the trustees, or under the direction of the Court, as the case may be, accordingly.

(2.) The investment or other application by the trustees shall be made according to the direction of the tenant for life, and in default thereof, according to the discretion of the trustees, but in the last-mentioned case subject to any consent required or direction given by the settlement with respect to the investment or other application by the trustees of trust money of the settlement; and any investment shall be in the names or under the control of the trustees.

(3.) The investment or other application under the direction of the Court shall be made on the application of the tenant for life, or of the trustees.

(4.) Any investment or other application shall not

Cookes v Cookes W.N 5/2/87 p. 23. where tenant for life consented to an order for payment of private mony into Ct. he has exercised the option given him by s. 22 (1) + the money must remain in Ct. + be invested under the direction of the Court —

during the life of the tenant for life be altered without his consent.

INVESTMENT OR OTHER APPLICATION OF CAPITAL TRUST MONEY.

(5.) Capital money arising under this Act while remaining uninvested or unapplied, and securities on which an investment of any such capital money is made, shall for all purposes of disposition, transmission, and devolution, be considered as land, and the same shall be held for and go to the same persons successively, in the same manner and for and on the same estates, interests, and trusts, as the land wherefrom the money arises would, if not disposed of, have been held and have gone under the settlement.

(6.) The income of those securities shall be paid or applied as the income of that land, if not disposed of, would have been payable or applicable under the settlement.

(7.) Those securities may be converted into money, which shall be capital money arising under this Act.

Investment in land in England.

23. Capital money arising under this Act from settled land in England shall not be applied in the purchase of land out of England, unless the settlement expressly authorizes the same.

England includes Wales and Berwick-on-Tweed in Acts of Parliament (20 Geo. 2, c. 42, s. 3), but not in deeds or other documents.

Settlement of land purchased taken in exchange, &c.

24.—(1.) Land acquired by purchase or in exchange, or on partition, shall be made subject to the settlement in manner directed in this section.

(2.) Freehold land shall be conveyed to the uses, on the trusts, and subject to the powers and provisions which, under the settlement, or by reason of the exercise of any power of charging therein contained, are subsisting with respect to the settled land, or as near thereto as circumstances permit, but not so as to increase or multiply charges or powers of charging.

(3.) Copyhold, customary, or leasehold land shall be conveyed to and vested in the trustees of the settlement on trusts and subject to powers and provisions corresponding, as nearly as the law and circumstances permit, with

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INVESTMENT OR OTHER APPLICATION OF CAPITAL TRUST MONEY.

the uses, trusts, powers, and provisions to on and subject to which freehold land is to be conveyed as aforesaid; so nevertheless that the beneficial interest in land held by lease for years shall not vest absolutely in a person who is by the settlement made by purchase tenant in tail, or in tail male, or in tail female, and who dies under the age of twenty-one years, but shall, on the death of that person under that age, go as freehold land conveyed as aforesaid would go.

The last words of this sub-section are the usual words in the common form, but were not contained in the corresponding clause in Lord Cranworth's Act (23 & 24 Vict. c. 145, s. 4). Their absence made that clause objectionable, the vesting being merely negatived, so that on the death under age of the first tenant in tail, he was simply excluded, and the leaseholds reverted to the settlor: (*Gosling* v. *Gosling*, 1 De G. J. & S. 16; *Christie* v. *Gosling*, L. R. 1 H. L. 279; 1 Jarm. Wills, 274 n. (d.) 4th ed.). The last words of the section carry the leaseholds with the freeholds to the next issue in tail or the next tenant in tail by purchase if he attains twenty-one, and if not, through all tenants in tail by purchase till one does attain that age.

(4.) Land acquired as aforesaid may be made a substituted security for any charge in respect of money actually raised, and remaining unpaid, from which the settled land, or any part thereof, or any undivided share therein, has theretofore been released on the occasion and in order to the completion of a sale, exchange, or partition.

See note to s. 5.

(5.) Where a charge does not affect the whole of the settled land, then the land acquired shall not be subjected thereto, unless the land is acquired either by purchase with money arising from sale of land which was before the sale subject to the charge, or by an exchange or partition of land which, or an undivided share wherein, was before the exchange or partition subject to the charge.

(6.) On land being so acquired, any person who, by the direction of the tenant for life, so conveys the land as to subject it to any charge, is not concerned to inquire

whether or not it is proper that the land should be subjected to the charge.

(7.) The provisions of this section referring to land extend and apply, as far as may be, to mines and minerals, and to easements, rights, and privileges over and in relation to land.

VII.—IMPROVEMENTS.

Improvements with Capital Trust Money.

25. Improvements authorized by this Act are the making or execution on, or in connexion with, and for the benefit of settled land, of any of the following works, or of any works for any of the following purposes, and any operation incident to or necessary or proper in the execution of any of those works, or necessary or proper for carrying into effect any of those purposes, or for securing the full benefit of any of those works or purposes (namely):

Description of improvements authorized by Act.

(i.) Drainage, including the straightening, widening, or deepening of drains, streams, and watercourses:

(ii.) Irrigation; warping:

(iii.) Drains, pipes, and machinery for supply and distribution of sewage as manure:

(iv.) Embanking or weiring from a river or lake, or from the sea, or a tidal water:

(v.) Groynes; sea walls; defences against water:

(vi.) Inclosing; straightening of fences; re-division of fields:

(vii.) Reclamation; dry warping:

(viii.) Farm roads; private roads; roads or streets in villages or towns:

(ix.) Clearing; trenching; planting:

(x.) Cottages for labourers, farm-servants, and artisans, employed on the settled land or not:

(xi.) Farmhouses, offices, and out-buildings, and other buildings for farm purposes:

(xii.) Saw-mills, scutch-mills, and other mills, water-

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IMPROVEMENTS.

Improvements with Capital Trust Money.

wheels, engine-houses, and kilns, which will increase the value of the settled land for agricultural purposes or as woodland or otherwise:

(xiii.) Reservoirs, tanks, conduits, watercourses, pipes, wells, ponds, shafts, dams, weirs, sluices, and other works and machinery for supply and distribution of water for agricultural, manufacturing, or other purposes, or for domestic or other consumption:

(xiv.) Tramways; railways; canals; docks:

(xv.) Jetties, piers, and landing places on rivers, lakes, the sea, or tidal waters, for facilitating transport of persons and of agricultural stock and produce, and of manure and other things required for agricultural purposes, and of minerals, and of things required for mining purposes:

(xvi.) Markets and market-places:

(xvii.) Streets, roads, paths, squares, gardens, or other open spaces for the use, gratuitously or on payment, of the public or of individuals, or for dedication to the public, the same being necessary or proper in connexion with the conversion of land into building land:

(xviii.) Sewers, drains, water-courses, pipe-making, fencing, paving, brick-making, tile-making, and other works necessary or proper in connexion with any of the objects aforesaid:

(xix.) Trial pits for mines, and other preliminary works necessary or proper in connexion with development of mines:

(xx.) Re-construction, enlargement, or improvement of any of those works.

The improvements authorized by this section do not include the erection or improvement of a mansion house. That must still be effected under the Limited Owners Residences Acts (33 & 34 Vict. c. 56, and 34 & 35 Vict. c. 84).

Approval by Land Commissioners of scheme for

26.—(1.) Where the tenant for life is desirous that capital money arising under this Act shall be applied in or towards payment for an improvement authorized by

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IMPROVEMENTS.

Improvements with Capital Trust Money.

Improvement and payment thereon.

this Act, he may submit for approval to the trustees of the settlement, or to the Court, as the case may require, a scheme for the execution of the improvement, showing the proposed expenditure thereon.

(2.) Where the capital money to be expended is in the hands of trustees, then, after a scheme is approved by them, the trustees may apply that money in or towards payment for the whole or part of any work or operation comprised in the improvement, on—

(i.) A certificate of the Land Commissioners certifying that the work or operation, or some specified part thereof, has been properly executed, and what amount is properly payable by the trustees in respect thereof, which certificate shall be conclusive in favour of the trustees as an authority and discharge for any payment made by them in pursuance thereof; or on

(ii.) A like certificate of a competent engineer or able practical surveyor nominated by the trustees and approved by the Commissioners, or by the Court, which certificate shall be conclusive as aforesaid; or on

(iii.) An order of the Court directing or authorizing the trustees to so apply a specified portion of the capital money.

(3.) Where the capital money to be expended is in Court, then, after a scheme is approved by the Court, the Court may, if it thinks fit, on a report or certificate of the Commissioners, or of a competent engineer or able practical surveyor, approved by the Court, or on such other evidence as the Court thinks sufficient, make such order and give such directions as it thinks fit for the application of that money, or any part thereof, in or towards payment for the whole or part of any work or operation comprised in the improvement.

This section gives the tenant for life a choice of three modes in which he may obtain a sanction to any expenditure, so as to enable the amount to be paid out of capital, and so as to free the trustees from responsibility if the payment is to be made by them. A certificate of

In re Holcombe's Settled Estate W.N. 5/12/87, p. 23 A— scheme for proposed works must be submitted to the trustees before the works are commenced, otherwise the Ct cannot allow repayment of the cost out of capital money.

See amending Act 1890 and case Exeter & Thames Valley Railway Co.

SS. 27, 28.

IMPROVEMENTS.

Improvements with Capital Trust Money.

(1) the Land Commissioners, or (2) a competent engineer or able practical surveyor that the work has been properly executed, and what amount is payable, or (3) an order of the Court authorizing payment. Under any of these three authorities trustees will be safe in paying the amount mentioned in the certificate or order to the tenant for life, or as he may direct, he being the person who procures the execution of the work.

The result of this section seems to be that where capital money is in the hands of trustees, any scheme for its application in improvements must be approved by them; but if they refuse s. 44 appears to give an appeal to the Court. If the money is in Court then by sub-s. (3) the scheme must be approved by the Court. The work must be done before the money can be paid.

Concurrence in improvements.

27. The tenant for life may join or concur with any other person interested in executing any improvement authorized by this Act, or in contributing to the cost thereof.

Obligation on tenant for life and successors to maintain, insure, &c.

28.—(1.) The tenant for life, and each of his successors in title having, under the settlement, a limited estate or interest only in the settled land, shall, during such period, if any, as the Land Commissioners by certificate in any case prescribe, maintain and repair, at his own expense, every improvement executed under the foregoing provisions of this Act, and where a building or work in its nature insurable against damage by fire is comprised in the improvement, shall insure and keep insured the same, at his own expense, in such amount, if any, as the Commissioners by certificate in any case prescribe.

(2.) The tenant for life, or any of his successors as aforesaid, shall not cut down or knowingly permit to be cut down, except in proper thinning, any trees planted as an improvement under the foregoing provisions of this Act.

(3.) The tenant for life, and each of his successors as aforesaid, shall from time to time, if required by the Commissioners, on or without the suggestion of any person having, under the settlement, any estate or interest in the settled land in possession, remainder, or otherwise, report to the Commissioners the state of every

improvement executed under this Act, and the fact and particulars of fire insurance, if any.

(4.) The Commissioners may vary any certificate made by them under this section, in such manner or to such extent as circumstances appear to them to require, but not so as to increase the liabilities of the tenant for life, or any of his successors as aforesaid.

Improvements with Capital Trust Money.

(5.) If the tenant for life, or any of his successors as aforesaid, fails in any respect to comply with the requisitions of this section, or does any act in contravention thereof, any person having, under the settlement, any estate or interest in the settled land in possession, remainder, or reversion, shall have a right of action, in respect of that default or act, against the tenant for life; and the estate of the tenant for life, after his death, shall be liable to make good to the persons entitled under the settlement any damages occasioned by that default or act.

Execution and Repair of Improvements.

Execution and Repair of Improvements.

29. The tenant for life, and each of his successors in title having, under the settlement, a limited estate or interest only in the settled land, and all persons employed by or under contract with the tenant for life, or any such successor, may from time to time enter on the settled land, and, without impeachment of waste by any remainderman or reversioner, thereon execute any improvement authorized by this Act, or inspect, maintain, and repair the same, and, for the purposes thereof, on the settled land, do, make, and use all acts, works, and conveniences proper for the execution, maintenance, repair, and use thereof, and get and work freestone, limestone, clay, sand, and other substances, and make tramways and other ways, and burn and make bricks, tiles, and other things, and cut down and use timber and other trees not planted or left standing for shelter or ornament.

Protection as regards waste in execution and repair of improvements.

But for this section the tenant for life would not be able to enter as against his own tenant for executing works on the land of the tenant or on adjoining land, unless the tenant's lease so provides. Also the

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works might be such as a tenant for life impeachable for waste could not execute.

IMPROVEMENTS.

Improvement of Land Act, 1864.

Improvement of Land Act, 1864.

Extension of 27 & 28 Vict. c. 114, s. 9.

30. The enumeration of improvements contained in section nine of the Improvement of Land Act, 1864, is hereby extended so as to comprise, subject and according to the provisions of that Act, but only as regards applications made to the Land Commissioners after the commencement of this Act, all improvements authorized by this Act.

CONTRACTS.

VIII.—CONTRACTS.

Power for tenant for life to enter into contracts.

31.—(1.) A tenant for life—

(i.) May contract to make any sale, exchange, partition, mortgage, or charge; and

In this section enfranchisement is not mentioned. It is included in the term sale by force of s. 3 (ii.), which authorizes the tenant for life "to sell, &c., so as to effect an enfranchisement." See also sub-s. (vi.) *infra*.

For regulations respecting sales, &c., see s. 4.

(ii.) May vary or rescind, with or without consideration, the contract, in the like cases and manner in which, if he were absolute owner of the settled land, he might lawfully vary or rescind the same, but so that the contract as varied be in conformity with this Act; and any such consideration, if paid in money, shall be capital money arising under this Act; and

(iii.) May contract to make any lease; and in making the lease may vary the terms, with or without consideration, but so that the lease be in conformity with this Act; and

The consideration paid under this sub-section for varying the terms of a lease would be income: see *Earl Cowley* v. *Wellesley*, L. R. 1 Eq. 660.

(iv.) May accept a surrender of a contract for a lease, in like manner and on the like terms in and on

which he might accept a surrender of a lease; and thereupon may make a new or other contract, or new or other contracts, for or relative to a lease or leases, in like manner and on the like terms in and on which he might make a new or other lease, or new or other leases, where a lease had been granted; and

As to the terms on which a tenant for life may accept a surrender of a lease, see s. 13.

(v.) May enter into a contract for or relating to the execution of any improvement authorized by this Act, and may vary or rescind the same; and

(vi.) May, in any other case, enter into a contract to do any act for carrying into effect any of the purposes of this Act, and may vary or rescind the same.

(2.) Every contract shall be binding on and shall enure for the benefit of the settled land, and shall be enforceable against and by every successor in title for the time being of the tenant for life, and may be carried into effect by any such successor; but so that it may be varied or rescinded by any such successor, in the like case and manner, if any, as if it had been made by himself.

(3.) The Court may, on the application of the tenant for life, or of any such successor, or of any person interested in any contract, give directions respecting the enforcing, carrying into effect, varying or rescinding thereof.

(4.) Any preliminary contract under this Act for or relating to a lease shall not form part of the title or evidence of the title of any person to the lease, or to the benefit thereof.

Contracts by tenant in tail.

The contract under this Act of a tenant in tail has the same effect as that of a tenant for life and binds the successor, notwithstanding that the ordinary contracts of a tenant in tail do not so bind. The ordinary contract if binding would defeat the successor's title in like manner as the contract of an owner in fee simple, but under this Act the contract enures for the benefit of the successor.

SS. 32, 33.

CONTRACTS.

This section renders an intending purchaser or lessee or other person contracting with the tenant for life under the powers given by the Act, perfectly safe as regards performance of the contract. Every successor of the tenant for life contracting, will be bound and liable to perform the contract in the same way as that tenant for life himself.

MISCELLANEOUS PROVISIONS.

IX.—MISCELLANEOUS PROVISIONS.

Application of money in Court under Lands Clauses and other Acts. 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. 32 & 33 Vict. c. 18. 40 & 41 Vict. c. 18.

32. Where, under an Act incorporating or applying, wholly or in part, the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, or under the Settled Estates Act, 1877, or under any other Act, public, local, personal, or private, money is at the commencement of this Act in Court, or is afterwards paid into Court, and is liable to be laid out in the purchase of land to be made subject to a settlement, then in addition to any mode of dealing therewith authorized by the Act under which the money is in Court, that money may be invested or applied as capital money arising under this Act, on the like terms, if any, respecting costs and other things, as nearly as circumstances admit, and (notwithstanding anything in this Act) according to the same procedure, as if the modes of investment or application authorized by this Act were authorized by the Act under which the money is in Court.

This section enables money in Court under the Lands Clauses Acts and other similar Acts to be applied in like manner as money arising from a sale under this Act. The company by whom the money is paid in will be liable to pay the costs of the application to the Court, and of the disposal of the money in like manner as they are liable to pay the cost of reinvestment in land or of any other disposal of the money authorized by the Act under which the money is paid in.

Application of money in hands of trustees under powers of settlement.

33. Where, under a settlement, money is in the hands of trustees, and is liable to be laid out in the purchase of land to be made subject to the settlement, then, in addition to such powers of dealing therewith as the trustees have independently of this Act, they may, at the option of the tenant for life, invest or apply the same as capital money arising under this Act.

This section makes the powers given by the Act as to disposal of

capital money, applicable to all money in the hands of trustees liable to be laid out in land, whether before or after the commencement of the Act.

Application of money paid for lease or reversion.

34. Where capital money arising under this Act is purchase-money paid in respect of a lease for years, or life, or years determinable on life, or in respect of any other estate or interest in land less than the fee simple, or in respect of a reversion dependent on any such lease, estate, or interest, the trustees of the settlement or the Court, as the case may be, and in the case of the Court on the application of any party interested in that money, may, notwithstanding anything in this Act, require and cause the same to be laid out, invested, accumulated, and paid in such manner as, in the judgment of the trustees or of the Court, as the case may be, will give to the parties interested in that money the like benefit therefrom as they might lawfully have had from the lease, estate, interest, or reversion in respect whereof the money was paid, or as near thereto as may be.

Where a tenant for life is entitled to the rent of leaseholds for a short term he would be injured by a sale if he only received the income of the proceeds, and where the reversion on a lease is sold he may be benefited. This section provides for the adjustment of the rights of the tenant for life and remainderman notwithstanding the sale.

Apportionment of purchase money.

For the principle on which apportionment of the purchase money between tenant for life and remainderman is made on a sale of leaseholds for years, see *Askew* v. *Woodhead* 14 Ch. D. 27; and of reversions on leases, see *Re Wootton's Estate* L. R. 1 Eq. 589. On the sale of renewable leaseholds no apportionment was made in *Re Barber's Settled Estates*, 18 Ch. D. 624, and the cases there followed.

Cutting and sale of timber, and part of proceeds to be set aside.

35.—(1.) Where a tenant for life is impeachable for waste in respect of timber, and there is on the settled land timber ripe and fit for cutting, the tenant for life, on obtaining the consent of the trustees of the settlement or an order of the Court, may cut and sell that timber, or any part thereof.

(2.) Three fourth parts of the net proceeds of the sale shall be set aside as and be capital money arising under this Act, and the other fourth part shall go as rents and profits.

SS. 36, 37.

MISCELLANEOUS PROVISIONS.

Before this Act it was necessary for a tenant for life impeachable for waste to commence an action in order to have ripe timber cut under the direction of the Court. The course was to invest the whole proceeds, and give him no part of the capital, but only the income. This section following the principle as to mineral rents (see s. 11) gives him one fourth of the capital.

Proceedings for protection or recovery of land settled or claimed as settled.

36. The Court may, if it thinks fit, approve of any action, defence, petition to Parliament, parliamentary opposition, or other proceeding taken or proposed to be taken for protection of settled land, or of any action or proceeding taken or proposed to be taken for recovery of land being or alleged to be subject to a settlement, and may direct that any costs, charges, or expenses incurred or to be incurred in relation thereto, or any part thereof, be paid out of property subject to the settlement.

Before the commencement of this Act the whole cost of defending or bringing actions of ejectment in respect of settled land, or preserving property from deterioration by a nuisance on adjoining land, such as a sewage farm, fell on the tenant for life. Where there was money in Court liable to be laid out in land the Court often repaid the tenant for life the cost incurred by him, but the Court had no jurisdiction to charge the land. This section gives that power. It replaces and supplements s. 17 of the Settled Estates Act, 1877, which is now repealed (see schedule to this Act).

Heirlooms.

37.—(1.) Where personal chattels are settled on trust so as to devolve with land until a tenant in tail by purchase is born or attains the age of twenty-one years, or so as otherwise to vest in some person becoming entitled to an estate of freehold of inheritance in the land, a tenant for life of the land may sell the chattels or any of them.

(2.) The money arising by the sale shall be capital money arising under this Act, and shall be paid, invested, or applied and otherwise dealt with in like manner in all respects as by this Act directed with respect to other capital money arising under this Act, or may be invested in the purchase of other chattels, of the same or any other nature, which, when purchased, shall be settled and held on the same trusts, and shall devolve in the same manner as the chattels sold.

(3.) A sale or purchase of chattels under this section shall not be made without an order of the Court.

The Court had no jurisdiction to sell heirlooms simply on the ground of convenience: *D'Eyncourt* v. *Gregory* (3 Ch. D. 635).

X.—TRUSTEES.

Appointment of trustees by Court.

38.—(1.) If at any time there are no trustees of a settlement within the definition in this Act, or where in any other case it is expedient, for purposes of this Act, that new trustees of a settlement be appointed, the Court may, if it thinks fits, on the application of the tenant for life or of any other person having, under the settlement, an estate or interest in the settled land, in possession, remainder, or otherwise, or, in the case of an infant, of his testamentary or other guardian, or next friend, appoint fit persons to be trustees under the settlement for purposes of this Act.

(2.) The persons so appointed, and the survivors and survivor of them, while continuing to be trustees or trustee, and, until the appointment of new trustees, the personal representatives or representative for the time being of the last surviving or continuing trustee, shall for purposes of this Act become and be the trustees or trustee of the settlement.

This section does not enable the tenant for life of the settlement to appoint trustees for the purposes of the Act, unless the settlement gives him power for that purpose. The settlement, if made before the Act, may give to trustees a power of sale or a power of consent to or approval of a sale, and then they will be trustees for the purposes of the Act. No others will be trustees for those purposes. The settlement, if made after the Act, may contain a similar power, or may declare certain persons trustees for the purposes of the Act. The trustees in all these cases will be trustees for the purposes of the Act (s. 2 (8)), and being trustees of the settlement the tenant for life, if power is given to him for the purpose, or if not the surviving or continuing trustees or trustee, can appoint new trustees (Conveyancing Act, 1881, s. 31 (1)). The new trustees will also be trustees for the purposes of this Act (Conveyancing Act, 1881, s. 31 (5)). If these trustees, whether original or substituted, are willing to assist the tenant for life in putting in force the powers of this Act, an application to the Court under this section is unnecessary. But if

SS. 38, 39, 40. TRUSTEES.

they refuse to assist, or if there are no trustees, an application to the Court for the appointment of trustees is necessary, and it is conceived that the Court would require the refusing trustees, if any, to be served (see s. 46 (5)). When trustees have been once appointed by the Court they become trustees of the settlement for the purposes of the Act, and like other trustees so appointed have, under the Conveyancing Act, 1881, s. 31, power to appoint new trustees. It is proper in the interest of remaindermen not to allow the tenant for life to appoint trustees for the purposes of the Act unless empowered to do so by the settlement. The tenant for life having full power to sell without any sanction by the Court, it is conceived that the Court will in every case appoint trustees on an application by the tenant for life where there are refusing trustees as well as where there are no trustees. The only duty of the Court will be to see that the persons to be appointed are fit and proper persons.

Number of trustees.

There must be at least two trustees unless the settlement authorizes one alone to receive capital money (see ss. 39 and 45 (2)). Where in a settlement before the Act the power of sale is given to the survivor of two or more trustees this will be a sufficient authority. In a settlement made after the Act there should, if so desired, be not only an express authority to a sole trustee to act generally for the purposes of the Act, but also an express authority to him to receive capital money arising under the Act.

Number of trustees to act.

39.—(1.) Notwithstanding anything in this Act, capital money arising under this Act shall not be paid to fewer than two persons as trustees of a settlement, unless the settlement authorizes the receipt of capital trust money of the settlement by one trustee.

(2.) Subject thereto, the provisions of this Act referring to the trustees of a settlement apply to the surviving or continuing trustees or trustee of the settlement for the time being.

This section follows the practice of the Court, which does not usually pay out money to a single trustee.

It is conceived that the prohibition against paying to fewer than two applies to the case of a sole personal representative of a surviving trustee (see s. 38 (2)), so that a sole executor or administrator could not give a discharge. The word "representative" in the singular in the next section applies to the case where the settlement authorizes a sole trustee to act.

Trustees' receipts.

40. The receipt in writing of the trustees of a settlement, or where one trustee is empowered to act, of one

trustee, or of the personal representatives or representative of the last surviving or continuing trustee, for any money or securities, paid or transferred to the trustees, trustee, representatives, or representative, as the case may be, effectually discharges the payer or transferor therefrom, and from being bound to see to the application or being answerable for any loss or misapplication thereof, and, in case of a mortgagee or other person advancing money, from being concerned to see that any money advanced by him is wanted for any purpose of this Act, or that no more than is wanted is raised.

See last note as to the meaning of "representative" in the singular.

Protection of each trustee individually.

41. Each person who is for the time being trustee of a settlement is answerable for what he actually receives only, notwithstanding his signing any receipt for conformity, and in respect of his own acts, receipts, and defaults only, and is not answerable in respect of those of any other trustee, or of any banker, broker, or other person, or for the insufficiency or deficiency of any securities, or for any loss not happening through his own wilful default.

Protection of trustees generally.

42. The trustees of a settlement, or any of them, are not liable for giving any consent, or for not making, bringing, taking, or doing any such application, action, proceeding, or thing, as they might make, bring, take, or do; and in case of purchase of land with capital money arising under this Act, or of an exchange, partition, or lease, are not liable for adopting any contract made by the tenant for life, or bound to inquire as to the propriety of the purchase, exchange, partition, or lease, or answerable as regards any price, consideration, or fine, and are not liable to see to or answerable for the investigation of the title, or answerable for a conveyance of land, if the conveyance purports to convey the land in the proper mode, or liable in respect of purchase-money paid by them by direction of the tenant for life to any person joining in the conveyance as a conveying party, or as giving a receipt for the purchase-money, or in any other character,

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or in respect of any other money paid by them by direction of the tenant for life on the purchase, exchange, partition, or lease.

The result of the two last preceding sections seems to be that trustees are free from all responsibility of any kind except to take care of the money paid to them and make proper interim investments. When the money is to be re-invested in land they are expressly exempted from any responsibility as to the propriety of the purchase, the validity of the title, or the form of conveyance if it purports to convey the land in the proper manner. In parting with the purchase-money they have only to see that they pay it, by direction of the tenant for life, to some person who appears to join in the conveyance for some necessary or proper purpose. There ought, therefore, to be no difficulty in procuring trustees for the purposes of the Act.

Trustees' reimbursement.

43. The trustees of a settlement may reimburse themselves or pay and discharge out of the trust property all expenses properly incurred by them.

this is only a declaration of the law as it existed previously

Reference of differences to Court.

44. If at any time a difference arises between a tenant for life and the trustees of the settlement, respecting the exercise of any of the powers of this Act, or respecting any matter relating thereto, the Court may, on the application of either party, give such directions respecting the matter in difference, and respecting the costs of the application, as the Court thinks fit.

Notice to trustees.

45.—(1.) A tenant for life, when intending to make a sale, exchange, partition, lease, mortgage, or charge, shall give notice of his intention in that behalf to each of the trustees of the settlement, by posting registered letters, containing the notice, addressed to the trustees, severally, each at his usual or last known place of abode in the United Kingdom, and shall give like notice to the solicitor for the trustees, if any such solicitor is known to the tenant for life, by posting a registered letter, containing the notice, addressed to the solicitor at his place of business in the United Kingdom, every letter under this section being posted not less than one month before the making by the tenant for life of the sale, exchange, partition, lease, mortgage, or charge, or of a contract for the same.

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(2.) Provided that at the date of notice given the number of trustees shall not be less than two, unless a contrary intention is expressed in the settlement.

(3.) A person dealing in good faith with the tenant for life is not concerned to inquire respecting the giving of any such notice as is required by this section.

This section seems intended to protect the remaindermen from any clandestine dealing under the Act which, when once completed, might be difficult to set aside, but the protection given is not great, and the effect of it is, that unless the settlement otherwise provides, the powers of the Act ought not to be exercised unless there are two trustees at least, but the person taking under the power is not affected unless he has notice that the section is not complied with (as to notice, see Conveyancing Act, 1882, s. 3).

Trustees not bound to take proceedings.

The trustees to whom notice is given are not bound to take proceedings whatever their opinion may be as to the proposed dealing. The bill originally contained a clause authorizing the trustees to apply to the Court in any case, and enabling the Court to give them their costs, but the clause was struck out by the House of Commons Select Committee. As the Act stands it is conceived that any such application must be at the risk of the trustees.

Time of notice.

The notice must be given not only before the transaction is completed but before any contract is entered into. Where on a sale by private contract an immediate contract is desired, it should provide that the contract is not to bind the tenant for life until the notice has expired without any proceedings being taken whereby the sale is prevented. Even without this clause it is conceived that the contract would, notwithstanding the prohibition in the Act, bind the tenant for life at the expiration of the notice, on the same principle that a contract to execute a power arising only on a future event binds as soon as the power arises. But if the tenant for life should die before the expiration of the notice the successor would not be bound.

Contents of notice.

The notice is not required to contain any particulars of price, conditions of sale, or other matters. It may, therefore, be notice of a general intention to sell a farm or a number of specified farms, or even the whole estate, when a proper price can be obtained.

Duration.

The notice once given is not made to lapse after any specified time, and apparently continues in force during the whole lifetime of the tenant for life. It would seem, therefore, that the section will be complied with if, immediately after the settlement takes effect, or after the cesser of any particular estate, the tenant for life coming into possession gives to the trustees general notice of his intention to sell all or any part of the estate when a proper opportunity occurs. The notice once duly given does not appear to lapse even if there should become a total vacancy in the trusteeship

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TRUSTEES.

If this construction of the section be correct the notice may be some hindrance to the tenant for life, especially where there are no existing trustees, but it affords little or no protection to his successors.

Protection of purchaser.

The purchaser is expressly protected by sub-s. 3 from seeing that notice is given, but he must, it is conceived, see that there are or have been in existence at least two trustees, or one trustee in cases where the settlement provides that one trustee may act alone, and must also see that the two trustees or the one trustee, as the case may be, have been appointed at least a month previous to completion. If the purchase-money is to be paid to the trustees the purchaser must see to the due appointment of those trustees, otherwise he does not obtain a valid receipt. If it appears from the deed or order appointing trustees that within one month there was no trustee, the purchaser has express notice that the provisions of the Act cannot have been complied with, and it is conceived that he would not obtain a good title.

If the purchase-money is paid into Court it is perhaps not so clear that the purchaser must see to the due appointment of trustees, but it will be prudent for him to do so, at least until it is decided that the precaution is not necessary.

If it be held that general notice of intention to sell, exchange, lease, &c., sufficiently complies with this section, then it will be enough, where the money is paid into Court, if the purchaser finds that trustees are named in the settlement, due notice being thereby rendered possible.

Notice in case of leases.

In case of leases the necessity for notice may create some difficulty, unless a general notice can be given, and a counterpart signed by the trustees acknowledging receipt of the notice. All settlements should expressly dispense with notice as to leases.

Where trustees join in conveyance.

It may be contended that the notice is merely to enable the trustees to object if they have good cause, and it is conceived that where they join in the conveyance for the purpose of receiving money notice is not necessary.

COURT; LAND COMMISSIONERS; PROCEDURE.

XI.—COURT; LAND COMMISSIONERS; PROCEDURE.

Regulations respecting payments into Court, applications, &c.

46.—(1.) All matters within the jurisdiction of the Court under this Act shall, subject to the Acts regulating the Court, be assigned to the Chancery Division of the Court.

(2.) Payment of money into Court effectually exonerates therefrom the person making the payment.

(3.) Every application to the Court shall be by petition, or by summons at Chambers.

(4.) On an application by the trustees of a settlement

notice shall be served in the first instance on the tenant for life.

(5.) On any application notice shall be served on such persons, if any, as the Court thinks fit.

(6.) The Court shall have full power and discretion to make such order as it thinks fit respecting the costs, charges, or expenses of all or any of the parties to any application, and may, if it thinks fit, order that all or any of those costs, charges, or expenses be paid out of property subject to the settlement.

(7.) General Rules for purposes of this Act shall be deemed Rules of Court within s. 17 of the Appellate Jurisdiction Act, 1876, as altered by s. 19 of the Supreme Court of Judicature Act, 1881, and may be made accordingly. 39 & 40 Vict. c. 59. 44 & 45 Vict. c. 68.

(8.) The powers of the Court may, as regards land in the County Palatine of Lancaster, be exercised also by the Court of Chancery of the County Palatine; and Rules for regulating proceedings in that Court shall be from time to time made by the Chancellor of the Duchy of Lancaster, with the advice and consent of a Judge of the High Court acting in the Chancery Division, and of the Vice-Chancellor of the County Palatine.

(9.) General Rules, and Rules for the Court of Chancery of the County Palatine, may be made at any time after the passing of this Act, to take effect on or after the commencement of this Act.

(10.) The powers of the Court may, as regards land not exceeding in capital value five hundred pounds, or in annual rateable value thirty pounds, and, as regards capital money arising under this Act, and securities in which the same is invested, not exceeding in amount or value five hundred pounds, and as regards personal chattels settled or to be settled, as in this Act mentioned, not exceeding in value five hundred pounds, be exercised by any County Court within the district whereof is situate any part of the land which is to be dealt with in the Court, or from which the capital money to be dealt with in the Court arises under this Act, or in connexion

with which the personal chattels to be dealt with in the Court are settled.

Payment of costs out of settled property.

47. Where the Court directs that any costs, charges, or expenses be paid out of property subject to a settlement, the same shall, subject and according to the directions of the Court, be raised and paid out of capital money arising under this Act, or other money liable to be laid out in the purchase of land to be made subject to the settlement, or out of investments representing such money, or out of income of any such money or investments, or out of any accumulations of income of land, money, or investments, or by means of a sale of part of the settled land in respect whereof the costs, charges, or expenses are incurred, or of other settled land comprised in the same settlement and subject to the same limitations, or by means of a mortgage of the settled land or any part thereof, to be made by such person as the Court directs, and either by conveyance of the fee simple or other estate or interest the subject of the settlement, or by creation of a term, or otherwise, or by means of a charge on the settled land or any part thereof, or partly in one of those modes and partly in another or others, or in any such other mode as the Court thinks fit.

Constitution of Land Commissioners; their powers, &c.

48.—(1.) The commissioners now bearing the three several styles of the Inclosure Commissioners for England and Wales, and the Copyhold Commissioners, and the Tithe Commissioners for England and Wales, shall, by virtue of this Act, become and shall be styled the Land Commissioners for England.

(2.) The Land Commissioners shall cause one seal to be made with their style as given by this Act; and in the execution and discharge of any power or duty under any Act relating to the three several bodies of commissioners aforesaid, they shall adopt and use the seal and style of the Land Commissioners for England, and no other.

(3.) Nothing in the foregoing provisions of this section

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shall be construed as altering in any respect the powers, authorities, or duties of the Land Commissioners, or as affecting in respect of appointment, salary, pension, or otherwise any of those commissioners, in office at the passing of this Act, or any assistant commissioner, secretary, or other officer or person then in office or employed under them.

(4.) All Acts of Parliament, judgments, decrees, or orders of any court, awards, deeds, and other documents, passed or made before the commencement of this Act, shall be read and have effect as if the Land Commissioners were therein mentioned instead of one or more of the three several bodies of commissioners aforesaid.

(5.) All acts, matters, and things commenced by or under the authority of any one or more of the three several bodies of commissioners aforesaid before the commencement of this Act, and not then completed, shall and may be carried on and completed by or under the authority of the Land Commissioners; and the Land Commissioners, for the purpose of prosecuting, or defending, and carrying on any action, suit, or proceeding pending at the commencement of this Act, shall come into the place of any one or more, as the case may require, of the three several bodies of commissioners aforesaid.

(6.) The Land Commissioners shall, by virtue of this Act, have, for the purposes of any Act, public, local, personal, or private, passed or to be passed, making provision for the execution of improvements on settled land, all such powers and authorities as they have for the purposes of the Improvement of Land Act, 1864; and the provisions of the last-mentioned Act relating to their proceedings and inquiries, and to authentication of instruments, and to declarations, statements, notices, applications, forms, security for expenses, inspections, and examinations, shall extend and apply, as far as the nature and circumstances of the case admit, to acts and proceedings done or taken by or in relation to the Land Commissioners under any Act making provision as last afore-

27 & 28 Vict. c. 114.

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said; and the provisions of any Act relating to fees or to security for costs to be taken in respect of the business transacted under the Acts administered by the three several bodies of commissioners aforesaid shall extend and apply to the business transacted by or under the direction of the Land Commissioners under any Act, public, local, personal, or private, passed or to be passed, by which any power or duty is conferred or imposed on them.

The use of the expression "passed or to be passed" arose from this section having been originally included in the Conveyancing Act, 1882, then considered more likely to pass than this Act. But it is conceived that the expression "Act passed" only speaks and has effect after the Act in which it is contained has passed and includes that Act.

Filing of certificates, &c., of Commissioners.

49.—(1.) Every certificate and report approved and made by the Land Commissioners under this Act shall be filed in their office.

(2.) An office copy of any certificate or report so filed shall be delivered out of their office to any person requiring the same, on payment of the proper fee, and shall be sufficient evidence of the certificate or report whereof it purports to be a copy.

RESTRICTIONS, SAVINGS, AND GENERAL PROVISIONS.

XII.—RESTRICTIONS, SAVINGS, AND GENERAL PROVISIONS.

Powers not assignable; contract not to exercise powers void.

50.—(1.) The powers under this Act of a tenant for life are not capable of assignment or release, and do not pass to a person as being, by operation of law or otherwise, an assignee of a tenant for life, and remain exerciseable by the tenant for life after and notwithstanding any assignment, by operation of law or otherwise, of his estate or interest under the settlement.

(2.) A contract by a tenant for life not to exercise any of his powers under this Act is void.

(3.) But this section shall operate without prejudice to the rights of any person being an assignee for value of the estate or interest of the tenant for life; and in that case

the assignee's rights shall not be affected without his consent, except that, unless the assignee is actually in possession of the settled land or part thereof, his consent shall not be requisite for the making of leases thereof by the tenant for life, provided the leases are made at the best rent that can reasonably be obtained, without fine, and in other respects are in conformity with this Act.

(4.) This section extends to assignments made or coming into operation before or after and to acts done before or after the commencement of this Act; and in this section assignment includes assignment by way of mortgage, and any partial or qualified assignment, and any charge or incumbrance; and assignee has a meaning corresponding with that of assignment.

Disclaimer.

This section does not expressly provide against disclaimer of a power, but a tenant for life could not disclaim the power and accept the estate; the disclaimer to be effectual must be complete, more especially as he is a trustee of the power, s. 53: *Slaney* v. *Watney*, L. R. 2 Eq. 418.

Effect of section.

The effect of this section is that the person defined in the Act as tenant for life entitled to exercise the powers conferred by the Act, always remains so entitled. He cannot divest himself of those powers, nor contract absolutely not to exercise them, but he may by assignment for value prevent himself from exercising the powers as against the assignee. Thus the execution of powers under the Act is governed by the same principle as the execution of powers conferred by a settlement, except that the latter are capable of being released and extinguished, and are bound by a contract not to exercise them; there is this further exception, namely that a lease under the Act without fine made by the tenant for life while he remains in possession will bind all his assignees.

The same principle applies to assignments made before as well as to those made after the commencement of the Act.

Effect of re-settlement.

Notwithstanding this section the tenant for life will cease to have the powers conferred by the Act when there is a disentail, or when there is a conveyance which operates as a disposition of the whole fee so as to put an end to all estates by way of succession under the settlement. The land, then, no longer "stands for the time being limited to or in trust for any persons by way of succession" within s. 2 (1), and is no longer settled land within s. 2 (3), and the Act ceases to apply to it. If there be a re-settlement, that of course brings the Act again into operation. It will still be necessary, as at present, to preserve the life estate under the prior settlement in cases where it is desired to be able to sell free from the charges of jointure and por-

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RESTRICTIONS, SAVINGS, AND GENERAL PROVISIONS.

tions under that settlement; otherwise they, "being charges having priority to the re-settlement," could not be overreached by the statutory power attached to the new life estate (see s. 20 (2) (i.)); but it is conceived that, as in the case of ordinary settlement powers, so in the case of the statutory powers, the customary relimitation to the first tenant for life of his old life estate with all powers annexed would put him back in the same position as before the disentail and re-settlement, he being in of his old estate: Sug. Powers, 71, 8th ed.

The powers of the Act are given to a tenant in tail in possession (s. 58), but in the same way the Act ceases to be applicable when he bars the entail.

Prohibition or limitation against exercise of powers, void.

51.—(1.) If in a settlement, will, assurance, or other instrument executed or made before or after, or partly before and partly after, the commencement of this Act a provision is inserted purporting or attempting, by way of direction, declaration, or otherwise, to forbid a tenant for life to exercise any power under this Act, or attempting, or tending, or intended, by a limitation, gift, or disposition over of settled land, or by a limitation, gift, or disposition of other real or any personal property, or by the imposition of any condition, or by forfeiture, or in any other manner whatever, to prohibit or prevent him from exercising, or to induce him to abstain from exercising, or to put him into a position inconsistent with his exercising, any power under this Act, that provision, as far as it purports, or attempts, or tends, or is intended to have, or would or might have, the operation aforesaid, shall be deemed to be void.

(2.) For the purposes of this section an estate or interest limited to continue so long only as a person abstains from exercising any power shall be and take effect as an estate or interest to continue for the period for which it would continue if that person were to abstain from exercising the power, discharged from liability to determination or cesser by or on his exercising the same.

The previous section precludes the tenant for life from divesting himself of the powers conferred by the Act. This section precludes the settlor from taking away or cutting down those powers. Sub-s. (1) makes any clause of forfeiture void, and by sub-s. (2) an estate originally limited so as to cease when the tenant for life attempts to make use of

the powers of the Act, is enlarged into the estate which would have existed irrespective of the clause of cesser.

The restraint on anticipation by a married woman is removed (s. 61 (6)) so as to enable the powers of the Act to be exercised by her notwithstanding that restraint.

The provisions made void by this section are only provisions which prevent or tend to prevent the exercise of the powers of the Act. Consequently a limitation over on bankruptcy of a tenant for life or on alienation of his life estate is not affected. Alienation, if allowed, would not take away his powers under the Act, and after a sale of the fee simple under the Act he would still be entitled to the income of the proceeds of sale until bankruptcy or alienation. There is, therefore, in such a case no provision tending to prevent the exercise of the statutory power of sale. On the other hand, a limitation over in case of non-residence is rendered void, as a sale under the statutory power would prevent residence.

The prohibition in this section applies not only to a provision in the settlement itself, but also to a provision in any other instrument. Thus a bequest of an annuity to a tenant for life so long as he should reside on the estate would take effect under sub-s. (2) as an annuity for his whole life, and would not cease on sale of the estate.

Provision against forfeiture.

52. Notwithstanding anything in a settlement, the exercise by the tenant for life of any power under this Act shall not occasion a forfeiture.

Tenant for life trustee for all parties interested.

53. A tenant for life shall, in exercising any power under this Act, have regard to the interests of all parties entitled under the settlement, and shall, in relation to the exercise thereof by him, be deemed to be in the position and to have the duties and liabilities of a trustee for those parties.

This section has an important effect as regards the preservation of the rights of the remaindermen. As a general rule the tenant for life is entitled to make the full profit out of all the legal incidents of his life estate. He may, when not impeachable for waste, cut all the profitable timber, though equity will restrain him from cutting where it is without adequate advantage and, apparently, simply malicious. On the same principle, before the Act 8 & 9 Vict. c. 106, s. 8, a tenant for life, with remainder to issue unborn, with remainder to himself in fee, could by simple conveyance destroy the contingent remainder, and no relief could be obtained in equity. But by this section he is made a trustee as to all powers conferred on him by the Act, and is accountable as such. Thus the tenant for life may make an improper or improvident sale or lease, good in favour of the purchaser or lessee under

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the next s. 54, but, under this section he will be answerable to the same extent as a trustee making the same sale or lease. The general effect of this section is to make the tenant for life answerable for an improvident or improper exercise of the powers conferred on him by the Act in the same manner as if he were an actual trustee.

General protection of purchasers, &c.

54. On a sale, exchange, partition, lease, mortgage, or charge, a purchaser, lessee, mortgagee, or other person dealing in good faith with a tenant for life shall, as against all parties entitled under the settlement, be conclusively taken to have given the best price, consideration, or rent, as the case may require, that could reasonably be obtained by the tenant for life, and to have complied with all the requisitions of this Act.

This s. makes good the title of all persons claiming under an exercise by the tenant for life of the powers of the Act, provided they are not parties to and have no notice of any improper dealing. In regard to notice the Conveyancing Act, 1882, s. 3, aids the purchaser's title.

Exercise of powers; limitation of provisions, &c.

55.—(1.) Powers and authorities conferred by this Act on a tenant for life or trustees or the Court or the Land Commissioners are exerciseable from time to time.

(2.) Where a power of sale, enfranchisement, exchange, partition, leasing, mortgaging, charging, or other power is exercised by a tenant for life, or by the trustees of a settlement, he and they may respectively execute, make, and do all deeds, instruments, and things necessary or proper in that behalf.

(3.) Where any provision in this Act refers to sale, purchase, exchange, partition, leasing, or other dealing, or to any power, consent, payment, receipt, deed, assurance, contract, expenses, act, or transaction, the same shall be construed to extend only (unless it is otherwise expressed) to sales, purchases, exchanges, partitions, leasings, dealings, powers, consents, payments, receipts, deeds, assurances, contracts, expenses, acts, and transactions under this Act.

Saving for other powers.

56.—(1.) Nothing in this Act shall take away, abridge, or prejudicially affect any power for the time being subsisting under a settlement, or by statute or otherwise,

exerciseable by a tenant for life, or by trustees with his consent, or on his request, or by his direction, or otherwise; and the powers given by this Act are cumulative.

(2.) But, in case of conflict between the provisions of a settlement and the provisions of this Act, relative to any matter in respect whereof the tenant for life exercises or contracts or intends to exercise any power under this Act, the provisions of this Act shall prevail; and, accordingly, notwithstanding anything in the settlement, the consent of the tenant for life shall, by virtue of this Act, be necessary to the exercise by the trustees of the settlement or other person of any power conferred by the settlement exerciseable for any purpose provided for in this Act.

By this s. all the powers of the settlement are preserved, but as it would be very inconvenient where trustees have powers for sale or for other purposes at their discretion, that there should be also concurrent powers vested in the tenant for life under the Act, it is provided that in all cases the powers in trustees similar to those conferred by the Act are to be exercised only with the consent of the tenant for life. A person dealing with the tenant for life thus knows that no other antagonistic dealing can take place. The effect of this and the next section is, that the settlor may enlarge but cannot restrict the powers of a tenant for life under the Act.

When trustees can mortgage or sell.

It is conceived, however, that to the exercise of a power given to trustees for raising charges by mortgage or sale, the consent of the tenant for life would not be necessary. The trustees would have a title paramount to that of the tenant for life, and he could not prevent the raising of the charges. Therefore a contract by the trustees to sell in such a case would prevail over a similar contract by the tenant for life, and no difficulty would arise. The case would be similar to that of contracts by two successive mortgagees, each with a power of sale. This construction is supported by the words "power exerciseable for any purpose provided for in this Act," which must mean purposes connected with the settled land and the settlement, not purposes paramount to the rights of the persons claiming under the limitations of the settlement.

As the tenant for life must give one month's notice to the trustees before his contract has any binding effect, any contract made by them before the expiration of the notice necessarily takes priority over the contract of the tenant for life, and thus no conflict between the two contracts can arise.

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RESTRICTIONS, SAVINGS, AND GENERAL PROVISIONS.

When tenant for life can sell alone.

When the tenant for life contracts to sell it is clear that he can give a title to a purchaser discharged from charges created by the settlement on which no money has been raised, s. 20 (2) (ii.), and they would be transferred to the proceeds of sale. In such case there would be no conflict between the provisions of the settlement and the provisions of this Act, and the trustees would not be necessary parties to the conveyance except for the other purposes of the Act.

(3.) If a question arises, or a doubt is entertained, respecting any matter within this section, the Court may, on the application of the trustees of the settlement, or of the tenant for life, or of any other person interested, give its decision, opinion, advice, or direction thereon.

Additional or larger powers by settlement.

57.—(1.) Nothing in this Act shall preclude a settlor from conferring on the tenant for life, or the trustees of the settlement, any powers additional to or larger than those conferred by this Act.

(2.) Any additional or larger powers so conferred shall, as far as may be, notwithstanding anything in this Act, operate and be exerciseable in the like manner, and with all the like incidents, effects, and consequences, as if they were conferred by this Act, unless a contrary intention is expressed in the settlement.

This sub-s. prevents any question as to how the combined powers of the settlement and the Act operate. An additional power to sell or lease could, under the settlement taken alone, only operate by revocation and appointment of uses. Under this sub-s. the additional powers will be common law powers taking effect in the same manner as the powers of the Act. See note to s. 20.

XIII.—LIMITED OWNERS GENERALLY.

LIMITED OWNERS GENERALLY.

Enumeration of other limited owners, to have powers of tenant for life.

58.—(1.) Each person as follows shall, when the estate or interest of each of them is in possession, have the powers of a tenant for life under this Act, as if each of them were a tenant for life as defined in this Act (namely):

(i.) A tenant in tail, including a tenant in tail who is by Act of Parliament restrained from barring or defeating his estate tail, and although the reversion is in the Crown, and so that the exercise by him of his powers under this Act shall bind

the Crown, but not including such a tenant in tail where the land in respect whereof he is so restrained was purchased with money provided by Parliament in consideration of public services:

"Possession" includes receipt of rents and profits (s. 2 (10) (i)) so that a lease does not prevent a person being in possession within this section.

This sub-s. extends the benefits of the Act to tenants in tail under Acts of Parliament ("settlement" includes "Act of Parliament," s. 2 (1)), which restrain a bar of the entail. It also enables a sale where a bar of the estate tail is prevented by the Act 34 & 35 Hen. 8, c. 20 (as to which see Fines and Recoveries Act, 3 & 4 Will. 4, c. 74, s. 18). It also, in connection with sub-s. (iii.), enables the Crown reversion in Ireland under a grant from the Crown to be bound, though the tenant in tail cannot bar it by enrolled deed (see 4 & 5 Will. 4, c. 92, s. 12 (Fines and Recoveries Act, Ireland)), as he can in England under the English Act (s. 15) where the case is not within the Act of Hen. 8. But then under s. 22 (5) and s. 21 of this Act the money not spent in improvements, or the land acquired with it, must be settled in the same manner as the land sold, and will become inalienable, or subject to a reversion in the Crown, as the case may be. The Act does not apply to lands purchased with money provided by Parliament for public services. Thus the estates settled on the Dukedoms of Marlborough and Wellington and the Earldom of Nelson cannot be sold under this Act. But the lands settled on the Earldoms of Shrewsbury and Abergavenny, and all lands which have hitherto become inalienably entailed under the Act 34 & 35 Hen. 8, c. 20, can now be sold.

(ii.) A tenant in fee simple, with an executory limitation, gift, or disposition over, on failure of his issue, or in any other event:

(iii.) A person entitled to a base fee, although the reversion is in the Crown, and so that the exercise by him of his powers under this Act shall bind the Crown:

This sub-s. will have an important effect in Ireland, where there are large tracts in which the Crown has a reversion on a base fee (*a*). The tenant for life will now be able to sell free from this reversion,

(*a*) The Landed Estates Court can bar the Crown's reversion: see 12 & 13 Vict. c. 77, s. 27.

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LIMITED OWNERS GENERALLY.

though a tenant in tail cannot do so by the ordinary disentailing assurance. In almost every case the Crown's reversion in practice is lost sight of and disregarded, and the proceeds of sale will generally be paid to the first person who bars the entail, and thus the Crown's reversion will be altogether lost. It is conceived that there are many cases in England where the fact that a perpetual entail exists under the Act 34 & 35 Hen. 8, c. 20, has been altogether lost sight of. If the Crown grant be before that Act, a recovery before the Act barred the issue but not the Crown's reversion (*Neal* v. *Wilding*, 1 Wilson, 275), and after the Fines and Recoveries Act the reversion also could be barred, and thus a complete title obtained. In many cases it may be difficult to ascertain whether the entail is subsisting or not.

(iv.) A tenant for years determinable on life, not holding merely under a lease at a rent:

(v.) A tenant for the life of another, not holding merely under a lease at a rent:

(vi.) A tenant for his own or any other life, or for years determinable on life, whose estate is liable to cease in any event during that life, whether by expiration of the estate, or by conditional limitation, or otherwise, or to be defeated by an executory limitation, gift, or disposition over, or is subject to a trust for accumulation of income for payment of debts or other purpose:

(vii.) A tenant in tail after possibility of issue extinct:

(viii.) A tenant by the curtesy:

Tenant by the curtesy.

Where the wife takes the fee under a conveyance or will, that would be the settlement within the definition of settlement: s. 2 (1). It is clearly an instrument "by virtue of which" the land stands settled on the husband and wife and her heir-at-law by way of succession. If the wife takes by descent there is a difficulty in saying that there is any settlement within the meaning of the Act.

(ix.) A person entitled to the income of land under a trust or direction for payment thereof to him during his own or any other life, whether subject to expenses of management or not, or until sale of the land, or until forfeiture of his interest therein on bankruptcy or other event.

(2.) In every such case, the provisions of this Act referring to a tenant for life, either as conferring powers

on him or otherwise, and to a settlement, and to settled land, shall extend to each of the persons aforesaid, and to the instrument under which his estate or interest arises, and to the land therein comprised.

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(3.) In any such case any reference in this Act to death as regards a tenant for life shall, where necessary, be deemed to refer to the determination by death or otherwise of such estate or interest as last aforesaid.

The general effect of this section is that, in all the preceding provisions of the Act each limited owner here mentioned is to be considered as also inserted wherever tenant for life is mentioned, and all consequential provisions as to trustees, the Court and other matters apply to the case of each such limited owner "as if each of them were a tenant for life" (sub-s. 1), as well as to the case of a tenant for life.

XIV.—INFANTS; MARRIED WOMEN; LUNATICS.

INFANTS; MARRIED WOMEN; LUNATICS.

59. Where a person, who is in his own right seised of or entitled in possession to land, is an infant, then for purposes of this Act the land is settled land, and the infant shall be deemed tenant for life thereof.

Infant absolutely entitled to be as tenant for life.

"Land" means land of any tenure (13 & 14 Vict. c. 21, s. 4), so that this section includes copyholds and leaseholds as well as freeholds.

60. Where a tenant for life, or a person having the powers of a tenant for life under this Act, is an infant, or an infant would, if he were of full age, be a tenant for life, or have the powers of a tenant for life under this Act, the powers of a tenant for life under this Act may be exercised on his behalf by the trustees of the settlement, and if there are none, then by such person and in such manner as the Court, on the application of a testamentary or other guardian or next friend of the infant, either generally or in a particular instance, orders.

Tenant for life, infant.

The effect of this section is not to take away the powers of an infant tenant for life, but to appoint persons to exercise them on his behalf. This is important in construing ss. 61, 62.

61.—(1.) The foregoing provisions of this Act do not apply in the case of a married woman.

Married woman, how to be affected.

(2.) Where a married woman who, if she had not been

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a married woman, would have been a tenant for life or would have had the powers of a tenant for life under the foregoing provisions of this Act, is entitled for her separate use, or is entitled under any statute, passed or to be passed, for her separate property, or as a *feme sole*, then she, without her husband, shall have the powers of a tenant for life under this Act.

(3.) Where she is entitled otherwise than as aforesaid, then she and her husband together shall have the powers of a tenant for life under this Act.

(4.) The provisions of this Act referring to a tenant for life and a settlement and settled land shall extend to the married woman without her husband, or to her and her husband together, as the case may require, and to the instrument under which her estate or interest arises, and to the land therein comprised.

(5.) The married woman may execute, make, and do all deeds, instruments, and things necessary or proper for giving effect to the provisions of this section.

(6.) A restraint on anticipation in the settlement shall not prevent the exercise by her of any power under this Act.

This section does not enable a married woman who is an infant to exercise the powers of the Act, the disability of infancy remains, notwithstanding coverture, and s. 60 applies, *Hearle* v. *Greenbank*, 3 Atk. 695, Sug. Powers, 177, 8th ed., unless the intention is clear that the power should be exercised during minority; *Re Cardross*, 7 Ch. D. 728; *Re D'Anbigau*, 15 *ib.* 228. The effect of sub-s. 4 is to make all the previous sections of the Act read as if the expression "tenant for life" had been, in the case of a married woman entitled for her separate use, or as a *feme sole*, replaced by "married woman tenant for life," and had been in any other case replaced by "married woman tenant for life together with her husband."

Acknowledgment unnecessary.

Sub-s. 5 expressly authorizes the married woman to execute the powers of the Act by deeds and instruments which, as in case of other powers to be exercised by deed, will not require acknowledgment: Sug. Powers, 153, 8th ed. In fact, acknowledgment is by the Fines and Recoveries Act confined to dispositions of the kind authorized by that Act, and cannot apply to any other disposition unless expressly made necessary. By the Married Women's Property Act, 1882, acknowledgment has ceased to be required in the case of women

married after 1882, and in the case of property acquired by a married woman after 1882 without regard to the date of her marriage.

The only case in which the concurrence of the husband becomes necessary is where both the marriage and the settlement are before 1883, and the wife is not entitled for her separate use. Where she is so entitled, even though the legal estate for life be in the husband in right of the wife, still his concurrence is not necessary. He is a trustee for her. The equitable tenant for life is full tenant for life for the purposes of the Act (s. 58 (ix.)), and can pass the legal estate.

Tenant for life, lunatic.

62. Where a tenant for life, or a person having the powers of a tenant for life under this Act, is a lunatic, so found by inquisition, the committee of his estate may, in his name and on his behalf, under an order of the Lord Chancellor, or other person intrusted by virtue of the Queen's Sign Manual with the care and commitment of the custody of the persons and estates of lunatics, exercise the powers of a tenant for life under this Act; and the order may be made on the petition of any person interested in the settled land, or of the committee of the estate.

A lunatic not found so by inquisition cannot dispose of his fee simple land, nor does the Act enable the disposal by him of land of which he is tenant for life, but if the lunatic be also an infant then s. 60 applies, as the ordinary jurisdiction in case of infants is not ousted unless there be a commission of lunacy: *Beall* v. *Smith*, 9 Ch. Ap. 85, 92; *Re Edwards*, 10 Ch. D. 605. The same principle applies where a tenant in tail, who is a person having the powers of a tenant for life, s. 58 (1) (i.), is a lunatic and also an infant, and see note to s. 60. In the case of a married woman, where her husband, who has an estate in her right, and whose concurrence is necessary under s. 61 (3), is a lunatic, the powers of the Act cannot be exercised unless under a commission; but if the married woman is entitled for her separate use, or as a *feme sole*, then she alone can exercise the powers of the Act s. 61 (2), and in any case if she is an infant s. 60 applies.

XV.—SETTLEMENT BY WAY OF TRUSTS FOR SALE.

SETTLEMENT BY WAY OF TRUSTS FOR SALE.

Provision for case of trust to sell and re-invest in land.

63.—(1.) Any land, or any estate or interest in land, which under or by virtue of any deed, will, or agreement, covenant to surrender, copy of court roll, Act of Parliament, or other instrument or any number of instruments, whether made or passed before or after, or partly before

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SETTLEMENT BY WAY OF TRUSTS FOR SALE.

and partly after, the commencement of this Act, is subject to a trust or direction for sale of that land, estate, or interest, and for the application or disposal of the money to arise from the sale, or the income of that money, or the income of the land until sale, or any part of that money or income, for the benefit of any person for his life, or any other limited period, or for the benefit of two or more persons concurrently for any limited period, and whether absolutely, or subject to a trust for accumulation of income for payment of debts or other purpose, or to any other restriction, shall be deemed to be settled land, and the instrument or instruments under which the trust arises shall be deemed to be a settlement; and the person for the time being beneficially entitled to the income of the land, estate, or interest aforesaid until sale, whether absolutely or subject as aforesaid, shall be deemed to be tenant for life thereof; or if two or more persons are so entitled concurrently, then those persons shall be deemed to constitute together the tenant for life thereof; and the persons, if any, who are for the time being under the settlement trustees for sale of the settled land, or having power of consent to, or approval of, or control over the sale, or if under the settlement there are no such trustees, then the persons, if any, for the time being, who are by the settlement declared to be trustees thereof for purposes of this Act are for purposes of this Act trustees of the settlement.

(2.) In every such case the provisions of this Act referring to a tenant for life, and to a settlement, and to settled land, shall extend to the person or persons aforesaid, and to the instrument or instruments under which his or their estate or interest arises, and to the land therein comprised, subject and except as in this section provided (that is to say):

(i.) Any reference in this Act to the predecessors or successors in title of the tenant for life, or to the remaindermen, or reversioners or other persons interested in the settled land, shall be deemed to refer to the persons interested in succession

or otherwise in the money to arise from sale of the land, or the income of that money, or the income of the land, until sale (as the case may require).

(ii.) Capital money arising under this Act from the settled land shall not be applied in the purchase of land unless such application is authorized by the settlement in the case of capital money arising thereunder from sales or other dispositions of the settled land, but may, in addition to any other mode of application authorized by this Act, be applied in any mode in which capital money arising under the settlement from any such sale or other disposition is applicable thereunder, subject to any consent required or direction given by the settlement with respect to the application of trust money of the settlement.

(iii.) Capital money arising under this Act from the settled land and the securities in which the same is invested, shall not for any purpose of disposition, transmission, or devolution, be considered as land unless the same would, if arising under the settlement from a sale or disposition of the settled land, have been so considered, and the same shall be held in trust for and shall go to the same persons successively in the same manner, and for and on the same estates, interests, and trusts as the same would have gone and been held if arising under the settlement from a sale or disposition of the settled land, and the income of such capital money and securities shall be paid or applied accordingly.

(iv.) Land of whatever tenure acquired under this Act by purchase, or in exchange, or on partition, shall be conveyed to and vested in the trustees of the settlement, on the trusts, and subject to the powers and provisions which, under the settlement or by reason of the exercise of any power of appointment or charging therein con-

SS. 63, 64.

SETTLEMENT BY WAY OF TRUSTS FOR SALE.

tained, are subsisting with respect to the settled land, or would be so subsisting if the same had not been sold, or as near thereto as circumstances permit, but so as not to increase or multiply charges or powers of charging.

This section was not in the Bill as originally drawn but was introduced at the last moment when the Bill was before the House of Commons Select Committee. The general scheme of the Act seems rather inapplicable to trusts for sale, and it is a strong measure to enable the tenant for life of the proceeds of sale to supersede the trustees in selling, but it was feared that settlors might seek to evade the provisions of the Act by making their settlements by way of trust for sale. To prevent this it would have been sufficient to insert a short clause enabling any tenant for life to apply to the Court in a summary way for an order directing the trustees to sell. But the necessity for an application to the Court was considered objectionable, though in the result the sale would in nearly every case have been made by the trustees without any application.

The section clearly applies all the provisions of the Act (including s. 56 (2), which prevents trustees from selling without consent of the tenant for life) to a settlement by way of trust for sale, and its effect is that, certainly in the case of a simple trust to sell and to invest the proceeds on trust for a person or several persons for life, the trustees alone cannot sell. The sale must be made either by the tenant for life or by all the tenants for life (ss. 2, (6) 63 (1)) if there be more than one, or by the trustees with his or their consent. The question then arises, can the trustees alone sell where the money is required for other purposes, as for payment of debts and legacies. It is submitted that they can, for the reasons given in the note to s. 56 (2), *ante*, p. 63.

REPEALS.

XVI.—REPEALS.

Repeal of enactments in schedule.

64.—(1.) The enactments described in the schedule to this Act are hereby repealed.

(2.) The repeal by this Act of any enactment shall not affect any right accrued or obligation incurred thereunder before the commencement of this Act; nor shall the same affect the validity or invalidity, or any operation, effect, or consequence, of any instrument executed or made, or of anything done or suffered, or of any order made, before the commencement of this Act; nor shall the same affect any action, proceeding, or thing then pending or uncom-

pleted; and every such action, proceeding, and thing may be carried on and completed as if there had been no such repeal in this Act.

SS. 64, 65. REPEALS.

The only part of Lord Cranworth's Act (23 & 24 Vict. c. 145) here repealed which is not re-enacted, is the provision for the renewal of leases. Renewable leaseholds are now becoming very rare, except in the case of ecclesiastical leases, and as to them trustees and tenants for life have large statutory powers of purchasing the reversion, conferred by 23 & 24 Vict. c. 124, ss. 35–37, and renewals are not desirable nor in general obtainable.

The effect of the repeal on the Improvement of Land Act, 1864, is to render it much easier to borrow for improvements. This Act does not enable borrowing for that purpose.

XVII.—IRELAND.

IRELAND.

65.—(1.) In the application of this Act to Ireland the foregoing provisions shall be modified as in this section provided.

Modifications respecting Ireland.

(2.) The Court shall be Her Majesty's High Court of Justice in Ireland.

(3.) All matters within the jurisdiction of that Court shall, subject to the Acts regulating that Court, be assigned to the Chancery Division of that Court; but General Rules under this Act for Ireland may direct that those matters or any of them be assigned to the Land Judges of that Division.

(4.) Any deed inrolled under this Act shall be inrolled in the Record and Writ Office of that Division.

(5.) General Rules for purposes of this Act for Ireland shall be deemed Rules of Court within the Supreme Court of Judicature Act (Ireland), 1877, and may be made accordingly, at any time after the passing of this Act, to take effect on or after the commencement of this Act.

40 & 41 Vict. c. 57.

(6.) The several Civil Bill Courts in Ireland shall, in addition to the jurisdiction possessed by them independently of this Act, have and exercise the power and authority exerciseable by the Court under this Act, in all proceedings where the property, the subject of the proceedings, does not exceed in capital value five hundred pounds, or in annual value thirty pounds.

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IRELAND.

40 & 41 Vict. c. 56.

(7.) The provisions of Part II. of the County Officers and Courts (Ireland) Act, 1877, relative to the equitable jurisdiction of the Civil Bill Courts, shall apply to the jurisdiction exerciseable by those Courts under this Act.

(8.) Rules and Orders for purposes of this Act, as far as it relates to the Civil Bill Courts, may be made at any time after the passing of this Act, to take effect on or after the commencement of this Act, in manner prescribed by section seventy-nine of the County Officers and Courts (Ireland) Act, 1877.

(9.) The Commissioners of Public Works in Ireland shall be substituted for the Land Commissioners.

(10.) The term for which a lease other than a building or mining lease may be granted shall be not exceeding thirty-five years.

THE SCHEDULE.

REPEALS.

23 & 24 Vict. c. 145, in part.	An Act to give to trustees, mortgagees, and others, certain powers now commonly inserted in settlements, mortgages, and wills	in part; namely,—
	PARTS I. AND IV.	
	(being so much of the Act as is not repealed by the Conveyancing and Law of Property Act, 1881).	
27 & 28 Vict. c. 114, in part.	The Improvement of Land Act, 1864 . . . . . Sections seventeen and eighteen: Section twenty-one, from "either by a party" to "benefice) or" (inclusive); and from "or if the land owner" to "minor or minors" (inclusive); and "or circumstance" (twice): Except as regards Scotland.	in part; namely,—
40 & 41 Vict. c. 18, in part.	The Settled Estates Act, 1877. Section seventeen.	in part; namely,—

Sect. 21 of the Improvement of Land Act, 1864, as it now stands, is as follows:—

In case of dissent, or when landowner's infant children are to be protected, Court of Chancery or session may authorize Commissioners to proceed.

21. If and when any Dissent from any such Application to the Commissioners for their Sanction of proposed Improvements shall have been notified in Writing to the Commissioners, by the Commissioners, Trustees, Company, or other Body or Individuals interested in any River or Canal which would or might be interfered with as hereinbefore mentioned, the Landowner desiring such Improvements may apply to the High Court of Chancery in *England* or *Ireland* where such Lands are situate in *England* or *Ireland* respectively, or

to the Court of Session where such Lands are situate in *Scotland*, for an Order of such Court authorizing the Commissioners to entertain and proceed upon the Application for such proposed Improvements notwithstanding such Dissent; and such Application shall be made, as to Lands in *England*, to the Master of the Rolls or any one of the Vice Chancellors sitting at Chambers, by Summons, calling on the Party dissenting to show Cause why such Order should not be made; as to Lands in *Ireland*, to the Master of the Rolls, by summary Petition or otherwise, as he shall by any General Order direct; and as to Lands in *Scotland*, to either Division of the Court of Session in Time of Session, or to the Lord Ordinary sitting on Bills in Time of Vacation, by summary Petition; and the Court or single Judge, as the Case may be, to whom such Application shall be made, shall hear and determine such Application, and for that Purpose shall have Power to make or direct to be made all such Inquiries, and receive and entertain all such Statements and Evidence, on Oath or by Affidavit, as such Court or Judge may consider necessary or desirable, or as may be produced before them or him; and if upon a Consideration of all the Circumstances such Court or Judge shall be of opinion that the Commissioners should entertain and proceed upon such Application, an Order shall be made authorizing and requiring them to proceed thereon, and to deal with the same according to the Provisions of this Act authorizing them in that Behalf, notwithstanding such Dissent aforesaid: Provided that if at any Time after Notification of such Dissent, and before any such Order shall have been applied for and made as aforesaid, such Dissent shall be withdrawn by a like Notification in Writing, it shall not be necessary to made or proceed with such Application, or to obtain such Order.

PART II.

CHAPTER I.

GENERAL EFFECT OF THE SETTLED LAND ACT, 1882, AND OF THE CONVEYANCING ACT, 1881, ON THE FORM OF SETTLEMENTS OF REAL ESTATE.

Powers supplied by the S. L. A.

The Settled Land Act, 1882, supplies full powers of sale, exchange, enfranchisement, and partition (ss. 3, 4), of leasing (ss. 6–12), surrendering leases (s. 13) and granting to copyholders license to lease (s. 14), including powers to deal with the surface and minerals apart from each other, and with or without way-leaves and other rights (s. 17). It also provides for the case of undivided shares (ss. 2 (10) (i.), 19), and confers on trustees power to give receipts (s. 40), and contains clauses as to trustees' indemnity (ss. 41, 42). It is useless now to insert in a settlement (*a*) any powers to dispose of the settled land similar to those in the Act. As between such powers in a settlement and similar powers in the Act, those in the Act prevail (s. 56 (2)) and cannot be negatived (s. 51); but in some cases further special or larger powers may be necessary and will have effect when inserted in a settlement (s. 57).

Powers supplied by C. A. 1881.

The Conveyancing Act, 1881 (s. 44), supplies powers for recovering rent-charges by distress and entry and creation of a term of years, also for management and for receipt and disposal of rents during minority (s. 42), and power for surviving or continuing trustees to appoint new

(*a*) The observations in regard to settlements in this chapter apply equally to wills.

trustees (s. 31), but as a general rule power should be given to a tenant for life to appoint trustees.

Points to be attended to in drawing settlements.

In the preparation of settlements of land (*a*) the following points should be attended to with reference to the Settled Land Act:—

Naming trustees.

(1.) To declare by the settlement that persons therein named are the trustees thereof for the purposes of the Act (s. 2 (8)).

Sole trustee.

(2.) To give express authority, if so desired, for all powers to be exercised by, and for capital money to be paid to, a sole trustee (s. 39).

Fines to be capital.

(3.) To expressly make all fines taken on grants of leases or on licenses to copyholders capital money.

Dispensing with notices.

(4.) To dispense with notice to the trustees, or their solicitor, under s. 45, if so desired. In some cases it may be desired to dispense with notice of leases only.

Interim investment.

(5.) To give, if so desired, a larger power of interim investment of capital money than that given by s. 21 (i.).

Application of capital.

(6.) To specify, if so desired, any other mode of application of capital money besides those in s. 21.

Lease to merge on purchase of reversion in fee.

(7.) To direct that where the reversion in fee on a lease is purchased, the leasehold term shall be merged, so as to avoid all question (see note to s. 21 (vi.)).

Terms, &c., of leases.

(8.) To enable the grant of leases for any longer term, or on other conditions than specified in the Act, where required by the custom of the district, so as to avoid an application to the Court under s. 10.

Mining rents.

(9.) If not desired that any part of mining rents should be set aside as capital money under s. 11, the settlement should contain an express direction for this purpose. This will probably be a usual clause in settlements, the tenant for life being

(*a*) See note, last page.

generally allowed to take the whole rent under mining leases.

(10.) To give, where desired, express power to sell or lease the principal mansion house and demesnes and lands occupied therewith, notwithstanding s. 15. In any case it will be advisable to negative the application of this section, except to a particular mansion and lands described. Sale of mansion.

(11.) To give, if desired, power to raise money by mortgage for improvements or other purposes not included in ss. 18 or 47. Raising money.

(12.) In settlements of land in England to give, where desired, power to invest capital money in the purchase of land elsewhere (s. 23), and to exchange land in England for land out of England (s. 4 (8)). Purchase out of England.

(13.) To provide, if so desired, that accumulations of surplus rents during minority shall be applicable as capital money, where the infant dies under age without leaving issue inheritable. This is the usual course, otherwise they form part of the infant's personal estate (Conveyancing Act of 1881, s. 42 (5) (iii.)). Accumulations during minority.

On a conveyance to a purchaser or on a lease the following are the points arising on the Act to be attended to by the purchaser or lessee:— Purchaser to look to

(1.) That capital money be paid to the trustees or into Court (s. 22). Payment of capital money.

(2.) When capital is paid to trustees then, as regards settlements before 1883 and also as regards settlements after 1882 which do not provide the contrary, see that there are at least two trustees (s. 39) who have a power of sale (s. 2 (8)), or have been appointed by the Court under the Act (s. 38), and that they have been appointed more than one calendar month previously to the contract or conveyance or lease, so as to be capable of having had due notice under s. 45. Existence of trustees.

None of the land within s. 15.

(3.) See that none of the land comes within the description in s. 15 of the principal mansion or the demesnes thereof, or other lands usually occupied therewith, or if within that description then that there has been obtained the consent of the trustees (the last point (2) as to trustees also then applies), or the consent of the Court.

Tenant for life always to concur.

(4.) Whatever be the terms of a power or trust the tenant for life, or all the tenants for life if more than one (s. 2 (6)), should convey or lease, or concur in the conveyance or lease to consent (s. 56 (2)), if competent to act.

Operation of conveyance.

As to the operation of a conveyance under the Act to a purchaser, see note to s. 20, p. 31.

Capital money.

The following are capital moneys arising under the Act, and should be paid to the settlement trustees or into Court:—

(1.) Money received on any sale (which includes enfranchisement) or for equality of partition or exchange;

(2.) Fines on grants or confirmations of leases, except where the lease is granted pursuant to a covenant for renewal (see note to s. 7 (2) p. 19);

(3.) Money raised by mortgage: s. 18;

(4.) Share of mining rent (three-fourths where tenant for life impeachable for waste in respect of the minerals leased, otherwise one-fourth) unless the settlement provides to the contrary: s. 11;

(5) Three-fourths of proceeds of sale of timber cut under s. 35, where the tenant for life is impeachable for waste in respect of timber;

(6.) Money paid for licenses to demise granted to copyholders where the license is not authorized by the custom: s. 14;

(7.) Any consideration paid for dedication of streets, &c., under s. 16;

(8.) Money in Court or in the hands of trustees liable to be laid out in land to be settled as the settled land: ss. 32, 33;

(9.) Proceeds of sale of heirlooms: s. 37;

(10.) Consideration money paid for varying or rescinding contracts for sale, exchange, partition, mortgage, or charge: s. 31 (1) (ii.).

Moneys belonging to tenant for life.

The following it is conceived are not capital moneys, but belong to the tenant for life:—

(1.) Money paid by a lessee to the tenant for life as a consideration for acceptance of surrender of a lease (see note to s. 13, (1), p. 24);

(2.) Fines on the grant of leases pursuant to a covenant for renewal (see note to s. 7 (2) p. 19);

(3.) Money paid to the tenant for life as consideration for varying the terms of a lease under s. 31 (1) (iii.)

CHAPTER II.

GENERAL FORMS.

SECT. I.

FORMS IN SETTLEMENTS.

SETTLEMENTS.

No. 1.

Rent-charge for pin money.

TO THE USE that the said [*wife*] may during the joint lives of herself and the said [*husband*] receive out of the premises by way of pin money for her separate use and without power of anticipation the yearly rent-charge of £ to commence from the solemnization of the intended marriage and to be considered as accruing from day to day, but to be paid by equal quarterly payments the first thereof to be made at the end of three calendar months from the solemnization of the marriage if the said [*wife*] and [*husband*] be both then living (*a*), And subject to the said rent-charge,

No. 2.

Life estate.

TO THE USE of the said [*husband*] (*b*) during his life without impeachment of waste, With remainder,

No. 3.

TO THE USE THAT the said [*wife*] if she should survive the said [*husband*] shall receive out of the premises during

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Remedies for recovery of rent-charges.

(*a*) The remedies for the recovery of rent-charges are given by the Conveyancing Act, 1881, s. 44. Under the Married Women's Property Act, 1882, s. 12, the wife takes the rent-charge as her separate property, and has the same remedies as if she were a *feme sole*. It is, therefore, unnecessary to limit the rent-charge to a trustee for her as under the old practice.

Why assigns omitted.

(*b*) The word "assigns" is not a word of limitation, and is omitted throughout these forms as superfluous: Williams, R. P. 145, 12th Ed.; *Osborne* v. *Rowlett*, 13 Ch. D. 777.

the residue of her life (*a*) the yearly rent-charge of £ to commence from his death and to be considered as accruing from day to day, but to be paid by equal half-yearly payments, the first thereof to be made at the end of six calendar months from his death if she be then living, And subject to the said rent-charge,

No. 3.

Jointure rent-charge.

To THE USE of the said and [*or where there is only one set of trustees, say* the trustees hereinbefore named] (*b*) for a term of years without impeachment of waste on the trusts hereinafter declared, And subject thereto,

No. 4.

Term to secure portions.

To THE USE of the first and other sons of the said [*husband*] by the said [*wife*] successively according to seniority in tail male, With remainder To THE USE of the same sons successively in tail general, With remainder To THE USE of all the daughters of the said [*husband*] by the said [*wife*] in equal shares as tenants in common in tail general, With cross remainders between them in tail general (*c*), With remainder To THE USE, &c.

No. 5.

Sons in tail male and in tail.

Daughters tenants in common in tail.

To THE USE of or in trust for all or such one or more exclusively of the others or other of the sons or of the issue male of sons of the said [*husband*] for such estate or estates in tail male or any lesser estate or estates and charged with such annual sum or sums in favour of any one or more of such sons or issue male and subject to such conditions restrictions limitations and remainders over for the benefit of all or any one or more of such sons or issue male in tail male or for any lesser estate or estates as the said [*husband*] shall from time to time or at any time by deed revocable or irrevocable or by will

No. 6.

Limitations to issue in tail male of the husband as he shall appoint.

(*a*) The words in bar of dower, &c., are omitted, as the husband can always bar his wife of dower by deed or will. As to the remedies for the recovery of rent-charges, see p. 82 (*a*).

And bar of dower.

(*b*) Executors and administrators are not mentioned. They take the term without being specially named.

Executors, &c., may be omitted.

(*c*) These limitations are now sufficient to create estates tail (Conveyancing Act, 1881, s. 57, and Form IV. in 4th schedule thereto).

SETTLEMENTS.

In default, to use of sons of marriage in tail male.

Remainder to husband in fee

or codicil appoint, AND in default of and until and subject to any such appointment To THE USE of the first and other sons of the said [*husband*] and [*wife*] successively, according to seniority in tail male With remainder To THE USE of the said [*husband*] in fee simple.

No. 7.

Full limitations in strict settlement (not on marriage) or in a will.

To THE USE of the said A. B. for his life, with remainder To the use of W. B., the eldest son of the said A. B., for his life, with remainder To the use of the first and other sons of the said W. B. successively according to seniority in tail male, with remainder To the use of J. B., the second son of the said A. B., for his life, with remainder To the use of the first and other sons of the said J. B., successively according to seniority in tail male, with remainder To the use of the third, fourth, and other younger sons of the said A. B. [*i.e., unborn sons*] successively according to seniority in tail male, with remainder To the use of the first and other sons of the said W. B. successively according to seniority in tail general, with remainder To the use of the first and other sons of the said J. B. successively according to seniority in tail general, with remainder To the use of the third, fourth, and other younger sons of the said A. B. successively according to seniority in tail general, with remainder To the use of the first and other daughters of the said W. B. successively according to seniority in tail male, with remainder To the use of the first and other daughters of the said J. B. successively according to seniority in tail male, with remainder To the use of the first and other daughters of the said W. B. successively according to seniority in tail general, with remainder To the use of the first and other daughters of the said J. B. successively according to seniority in tail general, with remainder To the use of C. W., the only daughter of the said A. B., and wife of, &c., during her life, with remainder To the use of the first and other sons of the said C. W. successively according to seniority in tail male, with remainder To the use of K. B., the second daughter of the said A. B., during her life, with re-

No. 7.

mainder To the use of the first and other sons of the said K. B. successively according to seniority in tail male, with remainder To the use of the third, fourth, and other younger daughters of the said A. B. [*i.e., unborn daughters*] successively according to seniority in tail male, with remainder To the use of the first and other sons of the said C. W. successively according to seniority in tail general, with remainder To the use of the first and other sons of the said K. B. successively according to seniority in tail general, with remainder To the use of the third, fourth, and other younger daughters of the said A. B. successively according to seniority in tail general, with remainder To the use of the first and other daughters of the said C. W. successively according to seniority in tail general, with remainder To the use of the first and other daughters of the said K. B. successively according to seniority in tail general, with remainder To the use of the said A. B. in tail general, with remainder To the use of the said A. B. in fee simple. AND IT IS HEREBY DECLARED [*or* I HEREBY DECLARE] that every estate for life hereby limited shall be without impeachment of waste, AND that each female to whom an estate for life is hereby limited shall not have power to anticipate the rents or profits of the said premises or any part thereof during any coverture. (*a*)

Life estates to be without impeachment of waste. And as to females without power of anticipation.

No. 8.

PROVIDED ALWAYS that every person (not being a peer or peeress) who under the limitations hereinbefore contained shall become entitled as tenant for life or as tenant in tail [male, or in tail] by purchase to the possession or to the receipt of the rents and profits of the premises hereby settled, who shall not then use and bear the surname and arms of shall within one year after such person shall so become entitled or (being an

Name and arms clause.

(*a*) It is not necessary to limit an estate to a trustee for a woman or to give it expressly for her separate use. Under the Married Women's Property Act, 1882, (ss. 1, 2), every woman takes as a *feme sole* any estate acquired after 1882.

SETTLEMENTS. No. 8.

infant) within one year after attaining the age of twenty-one years, and also every person not a peer being the husband of any woman becoming so entitled, shall within one year after his marriage or within one year after his wife shall so become entitled, or if he be an infant then within one year after he attains the age of twenty-one years, whichever of the three last-mentioned events shall last happen, unless in any case such person or husband shall be prevented by death, take, use, and bear in all deeds and writings which he or she shall sign, and upon all occasions the surname of either without any other surname or with and after any other surname, and shall also use the arms of or quarter the same with his or her family arms, and shall for that purpose apply for and endeavour to obtain Her Majesty's sign manual or license, or take such other steps as may be requisite, to authorize him or her to use and bear the said surname and arms. AND FURTHER, that in case any such person (not being a peer or peeress) shall refuse or neglect, within the time aforesaid, to take, use, and bear such surname and arms, or to take such steps as aforesaid or shall afterwards discontinue to use and bear such surname or arms, then, and in every such case, immediately after the expiration of the said term of one year or immediately after such discontinuance as aforesaid, as the case may be, if the person who or whose husband shall so refuse or neglect or discontinue as aforesaid shall be tenant for life, the estate for life hereinbefore limited to that person shall absolutely determine, and if the person who or whose husband shall so refuse, neglect, or discontinue as aforesaid shall be tenant in tail [male or in tail], then the estate in tail [male, or in tail] hereinbefore limited to that person shall absolutely determine, and the premises hereby settled shall, as the case may be, immediately go to the person next in remainder under the limitations hereinbefore contained in the same manner as if, in the case of a person tenant for life whose estate is so made to determine, that person were dead, or, in the case of a person tenant in tail [male or in

No. 8.

tail], whose estate is so made to determine, that person were dead and there were a general failure of issue of that person inheritable to the estate in tail [male, or in tail] which is so made to determine: PROVIDED always that the determination under the proviso lastly hereinbefore contained of the estate for life of any person shall not prejudice or affect any of the contingent remainders hereinbefore limited to the issue of that person or to any other person, and that after such determination the said premises shall go and remain to the use of and during the residue of the life of the person whose estate for life shall so determine Upon trust during the residue of the life of that person to pay the rents and profits of the premises to or permit the same to be received by the person or persons for the time being entitled under the limitations hereinbefore contained to the first vested estate in remainder expectant on the decease of that person.

No. 9.

Trusts of portion term in marriage settlement.

AND IT IS HEREBY DECLARED that the said and their executors and administrators (*a*) shall stand possessed of the said term of years UPON TRUST if there should be any child or children of the said intended marriage, who being a son or sons attain the age of twenty-one years, or being a daughter or daughters attain that age or marry (*b*) (other than and besides a first or only son or any other son or sons [or any daughter or daughters (*c*)], who, before attaining the age of twenty-one years, shall be or become entitled under the limita-

(*a*) It is now unnecessary to give a power or trust expressly to the survivor of two or more trustees or to the representatives of the survivor (Conveyancing Act, 1881, s. 38), but it is still necessary in regard to terms of years or other personal estate (to which s. 30 of that Act does not apply) to specify "executors and administrators," if they are to have the discretionary powers of original trustees. "Assigns" will be new trustees, and need not be specified.

(*b*) As to the importance of limiting a time for the vesting of portions, see *Hemming* v. *Griffith*, 2 Giff. 403; *Knapp* v. *Knapp*, L. R. 12 Eq. 238; *Henty* v. *Wrey*, 21 Ch. D. 332.

(*c*) Omit the words in brackets if the daughters take as tenants in common in tail.

SETTLEMENTS. No. 9.

tions hereinbefore contained to the first estate of inheritance in the premises hereinbefore conveyed) Then after the death of the said [*husband*], or in his lifetime with his consent in writing by mortgage or sale or demise of the premises or any part thereof for all or any part of the same term, or by receipt of the income thereof, or by all or any of those means or by any other reasonable means to raise for the portion or portions of such child or children or the issue of such child or children The sum of £ if there should be but one such child, The sum of £ if there should be two such children and no more, And the sum of £ if there should be three or more such children; such portion or portions to be vested in and payable to such child or children or issue at such age or time (not previous in case of a child being a son to the age of twenty-one years, or in case of a child being a daughter to that age or marriage) or any one or more exclusively of the other or others of such children or issue at such time (but in case of a child or children not previous as aforesaid), and if more than one in such shares and with such trusts over, and generally in such manner for the benefit of any such child or children or issue as the said [*husband*] shall in manner aforesaid appoint; AND in default of and until and subject to any such appointment to be paid to such child or to be divided equally amongst such children after the death of the said [*husband*] or in his lifetime with his consent;

Hotchpot clause.

PROVIDED ALWAYS that any child who or whose issue take by appointment any part of the said sums of £ or £ [*the two last-mentioned sums*] shall not, in the absence of any direction to the contrary, take any share in the unappointed part thereof without bringing the share or shares appointed to him or her or his or her issue into hotchpot and accounting for the same accordingly;

Trust for maintenance and education.

AND UPON FURTHER TRUST after the death of the said [*husband*] to raise out of the income of the premises, or by

the sale of timber, and pay or apply for the maintenance or education of each child or other issue for the time being expectantly entitled to a portion under the trusts aforesaid, and until such portion shall be payable such yearly sum not exceeding interest at the rate of 4 per cent. per annum on the then expectant portion of such child or other issue as the said [*husband*] shall in manner aforesaid appoint, And, in default of, and until, and subject to, any such appointment, then such sum as the trustees or trustee for the time being of the said term shall deem proper not exceeding the amount hereinbefore authorized to be appointed by the said [*husband*] for the like purposes, such yearly sum to be applied by the trustees or trustee or to be paid to the guardians or guardian of such child or other issue for the purposes aforesaid, and so that in the latter case the trustees or trustee shall not be concerned to see to the application thereof; PROVIDED ALWAYS, that the trustees or trustee may at any time or times after the death of the said [*husband*], or in his lifetime, with his consent in writing (*a*), raise by the means aforesaid, or any of them, and apply for the advancement or benefit of any son or sons or other male issue entitled in expectancy to a portion under the trusts of the said term, any part or parts not exceeding together one-half of the expectant portion of any such son or other male issue, so that the amount so raised be taken in part discharge of the portion in respect of which it is raised in case such son or other male issue eventually becomes entitled to a portion; PROVIDED ALSO, that no more than the total principal sum of £ [*the maximum*] shall be raisable under the trusts of the said term of years for portions and advancements, but the excess which would have been raisable for portions and advancements but for this provision shall sink into the estate; AND IT IS HEREBY DECLARED, that subject to and after

Advancement clause.

Maximum capital sum raisable.

(*a*) If the tenant for life desires that money should be raised for advancements during his life, he may concur in a mortgage by the trustees of the portions term and demise his life estate.

SETTLEMENTS.

No. 9.

answering the trusts hereinbefore declared, the rents and profits of the premises comprised in the said term shall be received by the person or persons entitled to the same premises in remainder immediately expectant upon the same term.

No. 10.

Power to jointure future wife.

PROVIDED ALWAYS, that the said [*husband*] may, at any time either before or after any marriage contracted by him subsequent to the now-intended marriage by deed, revocable or irrevocable, or by will or codicil, appoint to his wife by such marriage, if she survive him, for her life or for any less period, any yearly rent-charge or yearly rent-charges not exceeding in the whole the yearly sum of £ , to commence from his death, and to be issuing out of all or any of the premises hereby settled, and to be paid at such times and in such manner as he shall direct, And any such appointment may be made as often as he shall marry, but so that the premises be not charged with any greater yearly sum or greater yearly sums in the whole than the yearly sum of £ (*a*).

No. 11.

Power to charge portions on future marriage.

PROVIDED ALSO that the said [*husband*] may at any time either before or after any marriage contracted by him subsequent to the now-intended marriage by deed, revocable or irrevocable, or by will or codicil (but subject to the said term of years [*the portion term for children of present marriage*]) charge all or any of the premises hereby settled with the payment of any money not exceeding the different sums in the different events hereinafter mentioned for the portion or portions of any one or more exclusively of the other or others of his children by any such subsequent marriage who being a son or sons attain the age of twenty-one years, or being a daughter or daughters, attain that age or marry, or for the portion or portions of any issue of any such child (that is to say), The sum of £ if there should be only one such child; The sum of £ if there should be two such children

(*a*) The last part of this clause is required to provide against a second full jointure in case of a divorce.

and no more; And the sum of £ if there should be three or more such children; such portion or portions to be vested in and payable to such child or children or issue at such age (not previous in case of a child being a son, to the age of twenty-one years, or in case of a child being a daughter to that age or marriage) or any one or more exclusively of the other or others of such children or issue at such age or time (but in case of a child or children not previous as aforesaid) and if more than one, in such shares and with such trusts over for the benefit of any such child or children or issue, and generally in such manner for the benefit of any such child or children or issue as the said [*husband*] shall in manner aforesaid appoint; AND by the same or any other deed, or by will or codicil (but subject as aforesaid) to charge the premises charged with such portion or portions with the payment of any annual sum or sums (not exceeding interest on the principal sum so charged at the rate of 4 per cent. per annum), for or towards the maintenance or education of the child or other issue presumptively entitled to the principal sum charged until such principal sum becomes payable, such annual sum or sums to commence from such time and to be raised and paid in such manner, and be applied for the purposes aforesaid at the discretion of such person or persons as the said [*husband*] shall in manner aforesaid appoint;

Maintenance and education.

AND by the same or any other deed, or by will or codicil (but subject as aforesaid), to charge the premises with any sum or sums not exceeding together one-half of the expectant portion of any son or other male issue, to be raised for his advancement or benefit, so that the amount raised be taken in part discharge of the portion in respect of which it is raised in case such son or other male issue eventually becomes entitled to a portion, And every sum charged as lastly provided for the advancement or benefit of a son or other male issue shall be paid in such manner or applied at the discretion of such person or persons as the said [*husband*] shall in manner aforesaid direct;

Advancement.

SETTLEMENTS.

No. 11.

Power to appoint a term.

AND by the same or any other deed, or by will or codicil (but subject as aforesaid), to appoint the premises so charged for any term of years without impeachment of waste upon usual trusts by mortgage or otherwise to raise the principal and annual sums charged and all costs of raising the same, And any charge and appointment under the aforesaid power may be made so often as the said [*husband*] shall marry, so that the total principal sum charged for portions and advancements do not ultimately exceed the sum hereinbefore authorized to be charged according to the event.

No. 12.

Power in a deed or will to jointure and limit rent-charges to husbands (successive tenants for life).

PROVIDED ALWAYS, that every person hereby made tenant for life of the premises hereby settled may at any time or times, either before or after becoming under the limitations hereinbefore contained, entitled to the possession or to the receipt of the rents and profits of the premises, (but subject to the limitations, powers and charges having priority to the estate of the appointor), by deed revocable or irrevocable, or by will or codicil, appoint to any wife or husband of the appointor during the residue of the life of such wife or husband, if surviving the appointor, or for any less period any yearly rent-charge, or rent-charges, not exceeding in the whole for the wife or husband of any one appointor the yearly sum of £ to be issuing out of all or any of the premises hereby settled, and to be paid at such times and in such manner as the appointor may direct (*a*). PROVIDED ALWAYS that any rent-charge appointed under the power last aforesaid shall not become a lien upon the premises, or be payable unless and until either the appointor shall be or become entitled to the possession or to the receipt of the rents and profits of the premises, or some issue of the appointor, shall, or, but for minority and if in existence, would become so entitled. PROVIDED ALSO, that the premises, or any of them, shall not, under the power lastly

(*a*) The remedies for the recovery of rent-charges, including power to appoint a term, are given by the Conv. and Law of P. Act, 1881, s. 44.

No. 12.

hereinbefore contained, be at any one time subject to the payment of yearly rent-charges which in the whole shall be in excess of the annual sum of £ ; but any rent-charge or rent-charges, or any part of any rent-charge, which but for this proviso would have occasioned or formed such excess, shall from time to time during the continuance of such excess not be raisable out of the premises, and the several rent-charges appointed shall take priority in payment successively the one over the other in the same order as the estates of the several persons by whom they are appointed.

No. 13.

Power in a deed or will to charge portions (successive tenants for life).

PROVIDED ALWAYS, that every person hereby made tenant for life of the premises hereby settled may at any time or times, either before or after becoming under the limitations hereinbefore contained, entitled to the possession or to the receipt of the rents and profits of the premises (but subject to the limitations, powers and charges having priority to the estate of the appointor), by deed revocable or irrevocable, or by will or codicil, charge all or any of the premises hereby settled with the payment of any money not exceeding in the different events hereinafter specified the different sums hereinafter mentioned for the portion or portions of any one or more exclusively of the others or other of the children of the person making the charge, who being a son or sons attain the age of twenty-one years, or being a daughter or daughters attain that age or marry (other than and besides a first or only son, or any other son or sons [or any daughter or daughters], who before attaining the age of twenty-one years shall or would but for minority be, or become entitled under the limitations hereinbefore contained to the possession of, or the first estate of inheritance in the same premises) or for the portion or portions of the issue of any such child or children (that is to say), The sum of £ if there shall be but one such child, The sum of £ if there shall be two such children and no more, And the sum of £ if there shall be three or more such children; such portion or portions to be

SETTLEMENTS. No. 13.

vested in and payable to such child or children, or issue at such age, (not previous, in case of a child being a son, to the age of twenty-one years, or in case of a child being a daughter, to that age or marriage), or any one or more exclusively of the other or others of such children or issue, at such time (but in case of a child or children not previous as aforesaid), and if more than one, in such shares and with such trusts over and generally in such manner for the benefit of any such child or children or issue as the person making the charge shall in manner aforesaid direct; And by the same, or any other deed, or by will or codicil (but subject as aforesaid) to charge the premises with the payment of any annual sum or sums, not exceeding interest on the principal sum so charged at the rate of 4 per cent. per annum, for or towards the maintenance or education of the child or other issue presumptively entitled to the principal sum charged, until such principal sum becomes payable, such annual sum or sums to commence from such time, and to be raised, paid, and applied in such shares and manner as the person making the charge shall in manner aforesaid direct; AND by the same or any other deed or by will or codicil (but subject as aforesaid) to charge the premises with any sum or sums not exceeding together one half of the expectant portion of any son or other male issue, to be raised for his advancement or benefit, so that the amount raised be taken in part discharge of the portion in respect of which it is raised in case such son or other male issue eventually becomes entitled to a portion, And every sum charged as lastly provided for the advancement or benefit of a son shall be paid in such manner or applied at the discretion of such person or persons as the person making the charge shall in manner aforesaid direct; AND by the same or any other deed or by will or codicil (but subject as aforesaid) to appoint the premises so charged for any term of years without impeachment of waste, upon usual trusts by mortgage or otherwise, to raise the principal and annual sums charged, and all costs of raising the same. Provided always, that any principal or

Maintenance and education.

Advancement.

Power to appoint a term.

Maximum capital sum.

annual sum charged under the power aforesaid shall not become a lien upon the premises or any part thereof, or be payable unless and until either the appointor shall be or become entitled to the possession or to the receipt of the rents and profits of the premises, or some issue of the appointor shall, or but for minority and if in existence, would be so entitled. PROVIDED also that the premises, or any of them, shall not under the power lastly hereinbefore contained become ultimately liable to the payment of principal money in excess of the sum of £ , but any charge or charges or any part of any charge which but for this proviso would have occasioned or formed such excess shall not be raisable out of the premises, and the several principal sums charged shall take priority in raising and payment successively the one over the other in the same order as the estates of the several persons by whom they are charged.

No. 13.

No. 14.

Trusts in deed or will of copyholds to correspond with uses of freeholds.

TO THE USE OF the trustees hereinbefore named and their heirs, according to the customs of the respective Manors of which the same premises are parcel, and at the accustomed rents, suits, and services, Upon trusts, and subject to powers and provisions as nearly corresponding with the uses, trusts, powers, and provisions hereby declared concerning the freehold premises hereinbefore settled as the different tenure will permit, but not so as to increase or multiply charges or powers of charging.

No. 15.

Trusts in deed or will of leaseholds to correspond with uses of freeholds.

UPON TRUST out of the rents and profits of the same premises to pay the rents and sums reserved and made payable in respect thereof, and to observe and perform the covenants and conditions which on the lessee's part ought to be observed and performed, And, subject thereto, Upon trusts and subject to powers and provisions as nearly corresponding with the uses, trusts, powers, and provisions hereby declared concerning the freehold premises hereinbefore settled as the different tenure will permit, but not so as to increase or multiply charges or powers of charging, And so that such of the said leasehold premises as are held for years shall not vest absolutely in

SETTLEMENTS. No. 15.

any person hereby made tenant in tail male [or in tail] by purchase of the said freehold premises unless such person shall attain the age of twenty-one years, but on the death of such person under that age shall devolve in the same manner as if they had been freehold of inheritance and included in the limitations hereinbefore contained.

No. 16.

Trusts in a deed or will for renewal of leases or grants.

AND IT IS HEREBY DECLARED [I DECLARE] that the trustees or trustee (*a*) shall from time to time, as occasion requires in the ordinary course of renewal, obtain or endeavour to obtain on the accustomed and reasonable terms, renewed leases or grants for lives or years of such of the said leasehold and copyhold premises as are held by lease or grant for lives or years renewable or ordinarily renewed; AND THAT the fines and expenses of renewals shall be defrayed out of the premises of which renewals are to be obtained in such manner that the several persons beneficially entitled thereto shall contribute to such fines and expenses in the proportions in which, according to the rules of equity, they would be bound to contribute; AND THAT the trustees or trustee may raise any money required for any renewal by mortgage of the hereditaments taken by renewal, or of any other hereditaments for the time being subject to the subsisting limitations herein contained, but any mortgagee advancing money upon a mortgage purporting to be made under this power shall not be bound to see that such money is wanted or that no more than is wanted is raised; PROVIDED ALWAYS that the proportions in which such fines and expenses are to be ultimately borne by the persons beneficially entitled shall not be altered by the money for that purpose being in the first instance raised by mortgage; AND the trustees or trustee may make and execute all such surrenders, assurances, and things as may be expedient for effectuating any renewal or mortgage as aforesaid, AND shall not be chargeable for a breach of

Power to raise by mortgage fines for renewals.

Trustees not answerable for renewals.

(*a*) "The trustees or trustee" are defined in Form No. 18, which should come before this form.

trust by reason of any omission or neglect to obtain any renewed lease or grant as aforesaid.

No. 17.

Trusts in a deed of chattels as heirlooms.

UPON TRUST to allow the said chattels and effects lastly hereinbefore assigned, hereinafter called the said heirlooms, to be used and enjoyed, so far as the law will permit, by the person or persons who, under the limitations hereinbefore contained, shall for the time being be actually entitled to the possession or the receipt of the rents and profits of the premises hereby settled, but so nevertheless that the said heirlooms shall not vest absolutely in any person hereby made tenant in tail [male or in tail] by purchase, unless such person shall attain the age of twenty-one years; but on the death of any such tenant in tail [male or in tail] by purchase under the age of twenty-one years, the same shall devolve in the same manner as if they had been freehold hereditaments of inheritance, and had been hereby settled accordingly; AND IT IS HEREBY DECLARED that from time to time after the death of the said [*husband*] [*or* of the survivor of the said and (*a*)] an inventory shall be taken in duplicate of all the said heirlooms, and each inventory shall be signed by the trustees or trustee, and one copy shall be kept by the person for the time being entitled to the use and possession of the said heirlooms, and the other by the trustees or trustee, And before any of such articles shall, after the death of the said [*husband*] [*or* of such survivor as aforesaid] be delivered to any person entitled to the use and possession thereof, such person shall sign a receipt for the same at the foot of the copy of the said inventory retained by the trustees or trustee, And the trustees or trustee are hereby empowered from time to time to inspect and examine the state of the said heirlooms, and to require that the same be insured against loss or damage by fire, so far as they are capable of being so insured, and to be otherwise properly preserved, or to be restored and repaired at the expense of the usufructuary thereof for the

Provision for taking future inventories.

Trustees' power to inspect and examine heirlooms and to require insurance thereof.

(*a*) The words in brackets are to be used in re-settlements by father and eldest son, as in Precedent No. XVII., *post*.

SETTLEMENTS.

No. 17.

Power to exchange or alter heirlooms.

Protection to trustees.

time being. AND IT IS HEREBY DECLARED that the said heirlooms, or any of them, may from time to time, with the consent of the trustees or trustee, be exchanged, or the form and fashion thereof altered, or other articles substituted at the expense of the usufructuary thereof for the time being, provided the intrinsic value thereof be not diminished, And thereupon the inventories shall be altered accordingly. AND IT IS HEREBY FURTHER DECLARED that during the life of the said [*husband*] [*or* the lives of the said and , and the life of the survivor of them] and also after the death of the said [*husband*] [*or* of such survivor] provided a receipt as hereinbefore mentioned shall have been signed by the person who after such death is entitled to the use and possession of the said heirlooms, the trustees or trustee shall not be liable in any way for any loss, damage, or depreciation, or for any unauthorized dealing therewith or disposition thereof.

Trustee Clauses.

No. 18.

TRUSTEE CLAUSES (*a*).

Appointment in deed or will of trustees for S. L. A.

And C. A. 1881, s. 42.

Capital to be paid to

And powers exercised by one trustee.

AND IT IS HEREBY DECLARED [I DECLARE] that the said and and the survivors and survivor of them, or the executors or administrators of such survivor, or other the trustees or trustee for the time being hereof, hereinafter called the trustees or trustee, are hereby appointed to be the trustees or trustee hereof for all the purposes of the Settled Land Act (*b*), and also for all the purposes of section forty-two of the Conveyancing and Law of Property Act, AND THAT if and so long as there is only one trustee of these presents capital money arising under the Settled Land Act, or these presents may, notwithstanding anything in that Act contained, be paid to such one trustee alone (*c*), AND FURTHER that all the powers conferred on trustees by the Settled Land Act,

(*a*) For the position of these clauses, see Precedents XV. and XXII., *post*.

(*b*) See s. 2 (8).

(*c*) See s. 39 (1).

No. 18.

may be exercised by one trustee only, and all the provisions of that Act applicable to trustees, including notices under section forty-five, shall be satisfied though there may be only one trustee for the time being in existence hereof.

No. 19.

Destination of accumulations during minorities.

AND IT IS HEREBY DECLARED [I DECLARE] that if any infant taking by purchase who if of full age would be entitled to the possession or receipt of the rents and profits of the premises hereby settled [or any share thereof (*a*)] should die under the age of twenty-one years, or being a female, also without having been married, and whether male or female without leaving any issue inheritable under the limitations hereinbefore contained, then all accumulations of surplus rents and profits made during the minority of such infant, and which but for this present provision would have formed part of the personal estate of the infant at death (*b*), or so much thereof as may not have been applied under any statutory power shall be deemed capital money arising under the Settled Land Act, from the premises hereby settled, and shall be applied and dealt with accordingly.

No. 20.

Trustees may present to livings during minorities.

PROVIDED ALWAYS that during the minority of any person who under the limitations hereinbefore contained is or would if of full age be entitled for the time being to the possession or to the receipt of the rents and profits of the premises hereby settled [or any share thereof] as tenant for life or as tenant in tail [male or in tail] by purchase the trustees or trustee may present a fit person to any vacant ecclesiastical benefice, either absolutely or subject to such lawful terms as to resignation as the trustees or trustee deem proper.

No. 21.

Power to appoint new trustees (*c*).

AND IT IS HEREBY DECLARED [I DECLARE] that the said [*or* the person (if any) of full age, for the time

(*a*) Omit the words in brackets if there are no limitations to tenants in common. Where there is a shifting clause, see p. 210.

(*b*) See Conveyancing Act, 1881, s. 42 (5) (iii.)

(*c*) This form should come last in a Settlement or Will.

SETTLEMENTS.

No. 21.

being entitled to the possession or to the receipt of the rents and profits of the premises hereby settled] shall have power to appoint a new trustee or new trustees hereof.

No. 22.

Additional powers to those of S. L. A.

ADDITIONAL AND LARGER POWERS UNDER S. 57 OF S. L. A. (*a*)

AND IT IS HEREBY DECLARED [I DECLARE] that, notwithstanding any restriction contained in the Settled Land Act, the following powers additional to or larger than those conferred by that Act are hereby conferred on a tenant for life of the premises hereby settled, and on every person having the powers of a tenant for life under that Act, and on the trustees or trustee of the settlement, that is to say:

No. 23.

Mansion, &c., may be sold, &c., without consent.

THE PRINCIPAL mansion-house and the demesnes thereof and other lands usually occupied therewith may be sold or leased without any consent of the trustees or trustee of the settlement or any order of the Court;

No. 24.

Notices dispensed with.

ANY [sale, exchange, partition] lease [mortgage or charge] or any contract for a lease [*or* for the same] may be made without any previous notice of an intention to make the same being given to any trustee hereof, or any solicitor of any such trustee (*b*);

No. 25.

Longer term for building lease.

A LEASE of land in the township of , in the county of , for building purposes, may be made for any term not exceeding 999 years [*Add if any special conditions are required:* And subject to the following conditions in addition to or substitution for those specified in the Settled Land Act;]

No. 26.

Fee farm grant on building land.

A GRANT of land in the parish of , in the county of , for building purposes may be made in fee

(*a*) For the position of these forms, see Precedents XV. and XXII., *post*.

(*b*) See s. 45.

simple in consideration of an annual sum payable yearly or half-yearly, which may be either a rent-charge or secured by a condition for re-entry on non-payment (*a*); No. 26.

A LEASE of land, mines, and minerals in the parish of , in the county of , may be made for mining purposes for a term not exceeding 100 years; No. 27.

Longer term for mining lease.

ALL FINES payable on grants or confirmations of leases shall be deemed capital money arising under the Settled Land Act from the premises hereby settled, except fines taken where leases are granted pursuant to a covenant for renewal, which shall be deemed income; No. 28.

Fines to be capital except for renewals.

THE WHOLE of the rent under every mining lease shall be received by the tenant for life or other person for the time being entitled to the receipt of the rents and profits of the premises hereby settled, and no part of the rent under any mining lease shall be set aside as capital money arising under the Settled Land Act (*b*); No. 29.

No part of mining rent to be capital.

CAPITAL money arising under the Settled Land Act, from the premises hereby settled, may be applied in the purchase of land in Ireland (*c*); No. 30.

Purchase and exchange not limited to England.

THE PREMISES hereby settled, or any part thereof, may be given in exchange for land in Ireland (*d*).

THE POWER of sale conferred by the Settled Land Act shall include and authorize (*e*) a sale for a nominal consideration or otherwise of any pieces of land for all or any one of the following purposes, but not exceeding in extent two acres for any one purpose, namely, as a site for No. 31.

Power to give sites for churches, &c.

(*a*) See Co. Lit. sect. 325. This is the mode usual in some places in Lancashire.

(*b*) See s. 11.

(*c*) See s. 23.

(*d*) See s. 4 (8). As a general rule neither this nor the preceding clause of Form No. 30 will be inserted.

(*e*) This power will be exercised in the same mode as the power of sale. See S. L. A., s. 57 (2).

SETTLEMENTS.

No. 31.

a church, chapel, or any yard thereto, parsonage house, school-house, or garden thereto, or for a burial ground, whether in connection with the Church of England or not, or for the construction of any railway, canal, road (public or private), dock, drain, water-course, reservoir, town-hall, market-house, or other public building, or for any purpose connected with any such building or works, or for any other public or charitable purpose in connection with the premises hereby settled, or tending to the benefit of the persons residing on the said premises, but so that money or other valuable consideration if any received on any such sale shall be deemed capital money arising under the Settled Land Act, or an investment representing such capital money, and shall be received, applied, and dealt with accordingly;

No. 32.

Extended power of interim investment

CAPITAL money arising under the Settled Land Act, or the powers herein contained or money representing surplus rents and profits during a minority may be invested on or in any of the following investments, as well as investments authorized by the Settled Land Act, but not otherwise, that is to say, on mortgage of a term in lands or hereditaments in England or Wales, being not less than 300 years unexpired and not liable to be determined under a proviso for re-entry, or in the stock or securities of the Government of India for the time being, or in the purchase of the preference or wholly or partially guaranteed stock or shares, or on the security of the bonds, mortgages, or debentures, or in the purchase of the debenture stock of any railway company in Great Britain incorporated by special Act of Parliament, and having in each of the two years next before the date of investment paid a dividend on its ordinary stock or shares, or in or on the stock, shares, debentures, or debenture stock of any railway company in India, the dividends or interest whereon are, is, or shall be, wholly or partially or contingently guaranteed by the Government of India for the time being, or by the Secretary of State for India, on behalf of such government.

No. 33.

Term to merge in reversion purchased.

AND IT IS HEREBY DECLARED [I HEREBY DECLARE] that, if and whenever the reversion in fee simple of any leasehold hereditaments for the time being subject to the trusts herein contained, whether held for years or life or years determinable on life, shall be purchased, then and in every such case the term shall be assigned or surrendered, so as to merge in the freehold (*a*).

(*a*) See note to S. L. A., s. 21 (vi.), p. 35.

SECT. 2.

WILLS.

FORMS IN WILLS.

No. 34.

Commencement of will.

I , of , hereby revoke all testamentary dispositions heretofore made by me, and declare this to be my last will, which I make this day of 18 (*a*).

No. 35.

Commencement of codicil.

I , of , declare this to be a first [*or* second, &c.] codicil, which I make this day of 18 (*a*), to my will which is dated the day of 18 .

End of codicil.

And subject as aforesaid I confirm my said will.

No. 36.

Appointment of executors and trustees for purposes of S. L. A. and C. A. 1881, s. 42.

I APPOINT, &c., executors and trustees of my will, and I appoint them and the survivors and survivor of them or the executors or administrators of such survivor or other the trustees or trustee hereof for the time being, hereinafter called the trustees or trustee, to be the trustees or trustee for all the purposes of the Settled Land Act, and also for all the purposes of s. 42 of the Conveyancing and Law of Property Act.

For other provisions applicable to wills, see the following preceding forms, namely,

(1) To enable capital money to be paid to one trustee, Form No. 18.
(2) To enable one trustee to exercise all powers, *ib.*
(3) To make accumulations during minority capital, Form No. 19.
(4) Permitting sale and lease of mansion &c., Form Nos. 22 and 23.
(5) Dispensing with notices, Form No. 24.
(6) Permitting building and mining leases for longer terms than mentioned in S. L. A., Forms Nos. 25 and 27.
(7) Permitting fee farm grant on building land, Form No. 26.
(8) Fines to be capital money except on renewals, Form No. 28.
(9) Making no part of mining rent capital money, Form No. 29.
(10) Purchases and exchanges not limited to England, Form No. 30.
(11) Power to grant sites for churches, &c., Form No. 31.

(*a*) It is very convenient to have the date at the beginning of the will or codicil.

No. 36.

(12) Power for trustees to present to living during minority, Form No. 20.
(13) Larger powers of interim investment, Form No. 32.
(14) Term to merge when reversion in fee purchased, Form No. 33.
(15) Power to appoint new trustees, Form No. 21.

For the order in which those provisions should be placed, see Precedents of Wills, *infra*.

No. 37.

General devise of freeholds.

I DEVISE all the hereditaments which at my death I shall be beneficially entitled to for an estate of inheritance or shall have any general power to dispose of beneficially by will for the like estate (except what I otherwise dispose of hereby) To THE USE, &c. (*a*)

For limitations applicable to wills, see the preceding forms, Nos. 2, 3, 5-8.

No. 38.

Clause cutting down estates of tenants in tail born in testator's lifetime to estates for life.

PROVIDED always that in case any person hereby made tenant in tail male or in tail general (*b*) of the premises hereinbefore devised shall be living at or born within due time after my death, then I revoke the estates in tail male and in tail general hereby limited to any and every such person, and instead of and by way of substitution for the estate in tail male of any person hereby revoked, I DEVISE the premises in which but for this provision the same person would have taken such estate in tail male (but subject to and in remainder after the estates preceding such estate in tail male), To the use of the same person for life without impeachment of waste, with remainder To the use of the first and other sons of the same person successively according to seniority in tail male with the like remainders over except as hereinafter otherwise provided as are hereinbefore limited after such revoked estate in tail male; And further instead of and

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(*a*) This form is to come immediately after form No. 36, and the provisions connected with it, referred to above as (1) and (2), if those provisions are required, and before (3) *et seq.*; see the order in Precedent, No. XXII., *post*.

(*b*) This form is to come immediately after the limitations of the freeholds, and is adapted to cases where there are limitations in tail male as well as in tail to the same person. Where there are no limitations in tail male it should be altered accordingly.

WILLS.

No. 38.

by way of substitution for the estate in tail general of any person hereby revoked as aforesaid, I DEVISE the said premises in which but for this provision the same person would have taken such estate in tail general (but subject to and in remainder after the estates preceding such estate in tail general) To the use of the first and other sons of the same person successively according to seniority in tail general with remainder To the use of the first and other daughters of the same person successively according to seniority in tail male, with remainder To the use of the first and other daughters of the same person successively according to seniority in tail general, With the like remainders over as are hereinbefore limited after such revoked estate in tail general.

For powers for tenants for life to jointure, to limit rent-charges to husbands, and to charge portions, see preceding Forms, Nos. 12 and 13.

No. 39.

General devise of copyholds.

I DEVISE all the copyhold and customary hereditaments to which I shall at my death be beneficially entitled, or of which I shall have any general power to dispose beneficially by will (except what I otherwise dispose of hereby), Unto and to the use of the beforenamed trustees and their heirs Upon trusts and subject to powers and provisions as nearly corresponding with the uses, trusts, powers, and provisions hereinbefore limited concerning the freehold premises hereinbefore devised in settlement as the different tenure of the premises will permit, but not so as to increase or multiply charges or powers of charging.

No. 40.

General devise and bequest of leaseholds.

I DEVISE and BEQUEATH all the leasehold hereditaments to which I shall at my death be beneficially entitled or of which I shall then have any general power to dispose beneficially by will (except what I otherwise dispose of hereby) unto the beforenamed trustees their executors and administrators (*a*) Upon trust out of the rents and profits to

(*a*) See note (*a*) to Form No. 9, p. 87.

No. 40.

pay the rents payable in respect thereof, and to observe and perform the covenants and the conditions on the part of the lessees to be observed or performed, And, subject thereto, Upon trusts and subject to powers and provisions as nearly corresponding with the uses, trusts, powers, and provisions hereinbefore limited concerning the freehold premises hereinbefore devised in settlement as the different tenure of the premises will permit, but so as not to increase or multiply charges or powers of charging, And so that leasehold hereditaments held for a term of years, shall not vest absolutely in any person being a tenant in tail [male or in tail] by purchase of the said freehold premises who does not attain the age of twenty-one years, but on the death of such person under that age shall go and devolve in the same manner as if they had been freeholds of inheritance and had been included in the devise in settlement hereinbefore contained. (*a*)

No. 41.

Bequest of heirlooms.

I BEQUEATH all my diamonds and the settings thereof, and also all my pictures, prints, statues, sculptures, articles of vertu, books and plate, hereinafter referred to as heirlooms, unto the trustees hereinbefore named, their executors and administrators (*b*) UPON TRUST to allow the same to be used and enjoyed so far as the law permits by the person or persons who under my will are for the time being in the actual possession or in the receipt of the rents and profits of the premises hereinbefore devised in settlement, but so that such heirlooms shall not vest absolutely in any person being tenant in tail [male or in tail] by purchase, who does not attain the age of twenty-one years, but on the death of such person under the age of twenty-one years, shall go and devolve in the same manner as if they had been freehold hereditaments of inheritance and had been included in the devise in settlement hereinbefore con-

(*a*) For trusts for renewals, see Form No. 16, *ante*.

(*b*) See note (*a*) to Form No. 9, p. 87.

WILLS.
No. 41.

tained. And I direct that an inventory of the said heirlooms, except such of them as from their trifling value or perishable nature, or for any other reason it may be considered inexpedient to include in an inventory, as to which I give full discretion to the trustees or trustee, shall be taken in duplicate as soon as convenient after my death, and each copy shall be signed by the person entitled to the use of the heirlooms therein specified, and by the trustees or trustee thereof, and one copy shall be delivered to the person entitled to the possession of the heirlooms therein specified, who shall sign a receipt for the same, and the other copy shall be kept by the trustees or trustee; And I empower the trustees or trustee from time to time, and until the said heirlooms shall become absolutely vested, to inspect the same and to provide for the custody, preservation or restoration, and repair and insurance thereof (so far as the same are capable of insurance), at the expense of the usufructuary, but the trustees or trustee shall not incur any liability by neglect or omission so to do; And I declare that the said heirlooms or any of them may from time to time, with the consent of the trustees or trustee, be exchanged or the form or fashion thereof altered or other articles substituted at the expense of the usufructuary for the time being, provided the intrinsic value thereof be not diminished, and thereupon the inventories shall be altered accordingly; And I declare that when a receipt as hereinbefore provided shall have been signed by the person entitled to the use of the said heirlooms, the trustees or trustee shall not be liable in any way for any loss, damage, or depreciation, or for any omission to insure or any other omission or any unauthorized dealing or disposition therewith, And that the trustees or trustee may with the consent of any usufructuary, and if there be no such person of full age, then at their or his discretion, let the use and enjoyment of the said heirlooms or any of them together with my mansion-house of under any lease capable of being made thereof.

No. 42.

Testimonium and attestation clause to will or codicil.

In witness whereof I have hereunto set my hand the day and year first above written (*a*).

[*Testator's signature.*]

Signed and declared by the above-named as [a codicil to] his last will, in the presence of us both present at the same time, who in his presence and in the presence of each other have hereunto set our hands as witnesses

[*Two witnesses, adding addresses, and descriptions, if any* (*b*)]

(*a*) The date is at the beginning.

(*b*) The addresses and descriptions of the witnesses are not necessary, but are convenient for identification.

CHAPTER III.

PRECEDENTS.

PRECEDENTS.

No. I.

AGREEMENT BY TENANT FOR LIFE.

SECTION 1.

AGREEMENTS.

AGREEMENT FOR SALE OF FREEHOLDS BY TENANT FOR LIFE.

AN AGREEMENT made &c. between A. B. of &c. [*tenant for life*], hereinafter called the vendor, of the one part, and C. D. of &c., hereinafter called the purchaser, of the other part.

WHEREBY the vendor, so far as relates to the acts on his part to be performed, agrees with the purchaser, and the purchaser, so far as relates to the acts on his part to be performed, agrees with the vendor as follows, that is to say:—

To sell and purchase.

1. The vendor is to sell and the purchaser is to purchase at the price of £ the property hereinafter mentioned, and the fee simple and inheritance thereof in possession subject to the tenancies but free from incumbrances, that is to say:

Parcels.

All that &c., which premises are more particularly described in the schedule hereto, and are intended to be delineated on the plan hereto annexed, and to be thereon coloured

[*Add conditions as to time for completion, for delivery of requisitions, power to rescind, commencement of title and other conditions as required* (*a*), *including the following*]

(*a*) For a precedent of an agreement for sale see the work by the authors on the Conveyancing Act of 1881, 2nd ed. pp. 126-129, and the conditions there referred to.

The vendor sells as tenant for life under the powers of the Settled Land Act, and shall not be required to enter into any covenants for title other than those implied by his conveying as beneficial owner subject to a proviso that so far as regards the remainder expectant on his life estate, and the title to and further assurance of the property after his death, his implied covenants shall not extend to the acts or defaults of any person other than himself and his own heirs and persons claiming or to claim under or in trust for him or them.

The vendor will retain all documents relating to the property agreed to be sold together with other property, and will give a statutory acknowledgment of the right of the purchaser to production of such documents, and to delivery of copies thereof, and also a statutory undertaking for safe custody thereof.

[*Where one calendar month has not expired since the vendor's notice under S. L. A. s.* 45, *add the* 6*th condition in Preced. XXVII., infra.*]

In witness &c.

THE SCHEDULE ABOVE REFERRED TO.

See an AGREEMENT BY TENANT FOR LIFE to sell HEIRLOOMS, Precedent No. XXVII., *infra.*

SECT. 2.

CONVEYANCES.

CONVEYANCES.

No. II.

BY TENANT FOR LIFE.

CONVEYANCE BY TENANT FOR LIFE OF FREEHOLDS THE PURCHASE-MONEY BEING PAID TO TRUSTEES FOR SALE.

Parties.

THIS INDENTURE made &c. Between A. B., of &c. [*tenant for life*] of the first part, M. of &c. and N. of &c. [*trustees*] of the second part, and C. D., of &c. [*purchaser*] of the third part:

Recital of will.

Whereas John L. late of &c. deceased by his will dated &c. devised his real estate therein mentioned, including the hereditaments hereinafter conveyed, To the use of trustees for a term of 1000 years from his death upon trust to raise, in aid of his personal estate, so much money as should be sufficient to pay his debts and funeral and testamentary expenses, and subject to the said term and the trusts thereof, To the use of the said A. B. for his life, with remainders over: And the said will contained a power for X. and Y. and the survivor of them or other the trustees or trustee for the time being thereof to sell the real estate thereby devised:

Death of testator, and probate.

And whereas the said testator died on &c. without having altered or revoked his said will, which was on &c. proved in the Principal Probate Registry by the executors therein named:

Seisin.

And whereas the said testator was at his death seised of the hereditaments hereinafter conveyed for an estate in fee simple in possession free from incumbrances:

Death of trustees.

And whereas the said X. died on &c. and the said Y. died on &c. having by his will dated &c. appointed Robert G. executor thereof, who proved the same in the Principal Probate Registry on &c.:

Appointment of new trustees under C. A.

And whereas by an Indenture dated &c. and made &c. the said Robert G. in exercise of the power for that purpose contained in the Conveyancing and Law of Property

Act, 1881, appointed the said M. and N. trustees of the said testator's will:

That no money raised.

And whereas no money has been actually raised under the trusts of the said term of 1000 years:

Agreement for sale.

And whereas the said A. B. as tenant for life in possession under the said testator's will has agreed to sell to the said C. D. for the sum of £ the hereditaments hereinafter conveyed and the fee simple thereof in possession, free from incumbrances:

Testatum conveyance.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of £ by the direction of the said A. B. paid to the said M. and N. as such trustees as aforesaid by the said C. D., the receipt whereof the said M. and N. hereby acknowledge, the said A. B. in exercise of the power for this purpose conferred by The Settled Land Act, and of every other power enabling him and AS BENEFICIAL OWNER hereby conveys unto the said C. D.:

Parcels.

All the messuages, lands, and hereditaments situated in the parish of, &c. and county of, &c. containing in the whole a. r. p., a particular whereof is contained in the 1st schedule hereto and which are intended to be delineated on the plan endorsed on the skin of these presents and to be therein edged with

Habendum.

TO HOLD UNTO AND TO THE USE of the said C. D. in fee simple discharged from all the limitations, powers, and provisions of the will of the said testator John L. and from all estates, interests, and charges subsisting or to arise thereunder.

Proviso restricting covenants for title.

PROVIDED always, that so far as regards the reversion or remainder expectant on the life estate of the said A. B., in the premises hereby conveyed, and the title to and further assurance of the same after his death, the covenants by him herein implied by statute shall not extend to the acts or defaults of any person other than and besides himself and his own heirs and persons claiming or to claim under or in trust for him, or them.

Acknowledgment of right to production.

AND the said A. B. hereby acknowledges the right of the said C. D. to production of the documents mentioned

CONVEYANCES

No. II.

Undertaking for safe custody.

in the second schedule hereto, and to delivery of copies thereof; And hereby undertakes for the safe custody thereof.

In witness, &c.

THE FIRST SCHEDULE above referred to.

[*Parcels.*]

THE SECOND SCHEDULE above referred to.

[*Deeds to be produced.*]

Notice.

One calendar month's previous notice of the intention to make this sale, or to sell generally, should be given by the tenant for life (S. L. A. s. 45,) in cases where the settlement does not dispense with such notice, but the purchaser is not concerned to see that notice has been given: ib. sub-s. (3).

No. III.

BY TENANT FOR LIFE.

CONVEYANCE BY TENANT FOR LIFE OF FREEHOLDS, the PURCHASE-MONEY BEING PAID to TRUSTEES APPOINTED BY THE COURT FOR THE PURPOSES OF THE S. L. A.

Parties.

THIS INDENTURE made &c. between A. B. of &c. [*tenant for life*] of the first part, M. of &c. and N. of &c. [*trustees*] of the second part, and C. D. of &c. [*purchaser*] of the third part.

Recital of will.

Whereas John L., late of &c., deceased, by his will dated 1883, devised [*continue as in the first recital of Preced. II., sup. p.* 112, *omitting the last clause, and say instead*] But the said will contains no power of sale of the testator's real estate, and no person is by his said will appointed trustee thereof for the purposes of the Settled Land Act. [*Recite death, probate of the will, and seisin of testator, as in Preced. II., p.* 112.]

No trustee for purposes of S. L. A.

Order of Court appointing trustees.

And whereas by an order of the Chancery Division of the High Court of Justice dated, &c., and made by the Honourable Mr. Justice In the matter of the estate situate at in the county of settled by the will of John L., dated &c. And in the matter of the Settled Land Act, 1882, on the application of the said A. B., the said M. and N. were appointed trustees under

the recited will for the purposes of the said Act. [*Recite that no money actually raised, and continue as in Preced. II., pp.* 113, 114.]

See n. to Preced. II. as to notice.

CONVEYANCE BY TENANT FOR LIFE OF COPYHOLDS, THE PURCHASE-MONEY BEING PAID INTO COURT.

No. IV.

COPYHOLDS BY TENANT FOR LIFE.

THIS INDENTURE made &c. between A. B. of &c., of the one part, and C. D. of &c. of the other part:

Parties.

Whereas by an Indenture dated &c. and made between the said A. B. of the first part, Jane L. of the second part, and M. and N. of the third part (being a settlement made in consideration of the marriage then intended and afterwards solemnized between the said A. B. and Jane L.) the freehold hereditaments therein mentioned were limited after the solemnization of the said marriage, To the use of the said A. B. for his life with remainders over, and by the said Indenture a power of sale was given to the trustees therein named (*a*), And by the same Indenture the said A. B. covenanted that after the solemnization of the said marriage he would surrender the copyhold hereditaments therein mentioned, including the hereditaments hereinafter conveyed, To the use of the said M. and N. and their heirs, upon such trusts and subject to such powers and provisions as would correspond with the uses, powers, and provisions by the Indenture now in recital declared concerning the freehold hereditaments thereby settled as nearly as the different tenure of the premises would admit:

Recitals. Settlement.

Conveyance of freeholds to uses.

Covenant to surrender copyholds on corresponding trusts.

And whereas at a Court held for the manor of &c. on &c. the said A. B. surrendered the copyhold hereditaments hereinafter conveyed To the use of the said M. and N. and their heirs pursuant to the hereinbefore recited covenant and they were duly admitted thereto on &c.:

Surrender of copyholds.

(*a*) This shews that there were trustees to whom notice could be given under s. 45.

CONVEYANCES.

No. IV.

Agreement for sale.

And whereas the said A. B. as tenant for life in possession under the recited settlement has agreed with the said C. D. to sell to him the hereditaments hereinafter conveyed and the inheritance thereof in possession according to the custom of the said manor and free from incumbrances at the price of £ :

Payment of purchase-money into Court.

And whereas the said A. B. desired that the said sum of £ should be paid into Court (*a*), and accordingly the said C. D. has pursuant to an order of the Chancery Division of the High Court of Justice made on summons in Chambers, and dated &c., paid the said sum of £ into Court to the credit of "In the matter of" &c. [*see Rules of Court, p.* 231] which payment the said A. B. hereby acknowledges:

Testatum conveyance.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement, and in consideration of the said sum of £ so paid into Court as aforesaid, the said A. B. as BENEFICIAL OWNER in exercise [*continue operative part down to the habendum as in Preced. II., sup. p.* 113].

Habendum.

TO HOLD UNTO AND TO THE USE of the said C. D. and his heirs according to the custom of the said manor of at and under the accustomed rents, fines, heriots, suits, and services But discharged from all the limitations [*continue as in Preced. II., pp.* 113, 114 *to end*].

This deed must be entered on the Court rolls and the purchaser should be admitted pursuant to S. L. A., s. 20 (3). The same fine or other payment will be due as on a surrender by M. and N.

No. V.

ADMITTANCE.

To copyholds on conveyance by tenant for life.

ADMITTANCE of PURCHASER on CONVEYANCE of COPYHOLDS by TENANT FOR LIFE, the money being paid to trustees.

THE MANOR OF in the county of .

Recitals. Marriage settlement.

WHEREAS by an Indenture (*b*) dated the day of 18 , and made between A. B. of &c. of the first

(*a*) See S. L. A., s. 22 (1).

(*b*) An extract from this settlement in the form of this recital should be first entered on the Rolls.

part, C. D. of the second part, and E. F. and G. H. of the third part (being a settlement made in consideration of the marriage then intended and afterwards solemnized between the said A. B. and C. D.), after reciting that the said A. B. was seised of the freehold hereditaments thereinafter described and intended to be thereby conveyed, And that the said A. B. was seised of the copyhold hereditaments thereinafter described and covenanted to be surrendered, for an estate of inheritance in fee simple in possession, according to the custom of this manor, It was witnessed that in consideration of the said intended marriage the said A. B. conveyed the freehold hereditaments therein described, unto the said E. F. and G. H. in fee simple, To the use, after the marriage of the said A. B. for his life with remainders over, And the said settlement contained a power for the said E. F. and G. H. to sell the premises thereby conveyed or any part thereof, And by the said Indenture the said A. B. covenanted that he would forthwith after the solemnization of the said marriage, duly surrender, according to the custom of this manor, the customary or copyhold hereditaments therein and hereinafter described, To the use of the said E. F. and G. H., their heirs and assigns, Upon trusts, and subject to powers and provisions corresponding with the uses, trusts, powers and provisions declared concerning the freehold hereditaments thereby conveyed:

Surrender to trustees.

And whereas on the day of the said A. B. came before the steward of this manor, and in pursuance of the covenant contained in the said settlement, did out of Court surrender into the hands of the lord of this manor, by the hands and acceptance of K. L. deceased, then the steward, by the rod, according to the custom of this manor, All &c. (to which same premises the said A. B. was admitted at a Court held for this manor on the day of), To the use of the said E. F. and G. H., their heirs and assigns, according to the custom of this manor:

Admittance.

And whereas on the day of 18 , the said E. F. and G. H. were admitted to the said copyhold here-

CONVEYANCES. No. V.

ditaments hereinafter described, To hold to the said E. F. and G. H. and their heirs, according to the custom of this manor:

Purchase deed.

And whereas by an Indenture (*a*) dated the day of 1883, and made between the said A. B. of the first part, the said E. F. and G. H. of the second part, and X. Y. of &c. of the third part, in consideration of the sum of £ paid by the said X. Y. to the said E. F. and G. H., as trustees of the hereinbefore recited settlement, the said A. B., as tenant for life in possession under the said settlement, and in exercise of the power conferred on him by the Settled Land Act, and of every other power enabling him, conveyed All &c., To hold unto and to the use of the said X. Y., his heirs and assigns, according to the custom of this manor, and subject to the rents, fines, heriots, suits, and services therefor due and of right accustomed:

Admittance.

NOW BE IT REMEMBERED that on the day of 1883, the said X. Y. came before M. N., steward of this manor out of Court, that is to say, at his dwelling-house situated in &c., and prayed to be admitted to all the customary or copyhold hereditaments lying within and parcel of this manor so conveyed to him, the said X. Y., by the said Indenture of the day of 1883 (and to which the said E. F. and G. H. were admitted as aforesaid on the day of), To which said X. Y., the lord of the said manor, by the same steward, granted seisin thereof by the rod, To hold unto the said X. Y. and his heirs, to be holden of the lord by copy of court roll at the will of the lord, according to the custom of this manor, by fealty, suit of court, the ancient annual rent or rents, heriots when they shall happen, and other the duties and services therefor due and of right accustomed, and so (saving the rights of the lord) the said X. Y. is by the said steward admitted tenant thereof, and pays to the lord on such his admittance a fine certain of £ and his fealty is respited.

(*a*) This deed should be also first entered on the Court Rolls.

CONVEYANCE OF LEASEHOLDS BY TENANT FOR LIFE, THE PURCHASE-MONEY BEING PAID TO TRUSTEES APPOINTED BY THE SETTLOR FOR THE PURPOSES OF THE S. L. A.

No. VI.

BY TENANT FOR LIFE.

Parties.

THIS INDENTURE made &c., between A. B. of &c. [*tenant for life*] of the first part, M. of &c. and N. of &c. [*trustees*] of the second part, and C. D. of &c. [*purchaser*] of the third part.

Recital of lease.

Whereas by an Indenture of lease dated &c. and made between &c., The piece of land situated in the parish of , and county of , therein described, and the messuage thereon known as &c. and hereinafter conveyed, were demised to the said A. B. for the term of years from &c. at the yearly rent of £ , and subject to the covenants by the lessee and the conditions by and in the said lease reserved and contained:

Settlement.

Conveyance of freeholds.

Assignment of leaseholds.

And whereas by an Indenture dated &c. 1883, and made between [*continue recital of the settlement and the conveyance of freeholds, as in Preced. No. IV., p.* 115]. And by the same Indenture the hereditaments comprised in the said lease were with other leasehold hereditaments conveyed to the said M. and N. for the residues of the respective terms therein, Upon trust out of the rents and profits thereof to pay the rents and perform the lessee's covenants and the conditions by and in the said respective leases reserved and contained, And subject thereto, Upon trusts and subject to powers and provisions corresponding as nearly as the different tenure of the premises would permit with the uses, trusts, powers, and provisions by the Indenture now in recital declared concerning the freehold hereditaments thereby settled, but subject to a restriction against the absolute vesting of the beneficial interest in leaseholds for years in any tenant in tail [male or in tail] by purchase who should die under the age of twenty-one years: And by the Indenture now in recital the said M. and N. were appointed trustees thereof for the purposes of the Settled Land Act.

Trustees for purposes of S. L. A.

And whereas the said A. B. as tenant for life in possession under the said settlement has agreed with the said

CONVEYANCES.

No. VI.

Agreement for sale.

C. D. to sell to him, free from incumbrances, the leasehold hereditaments comprised in the recited lease for the residue of the term thereby granted at the price of £ :

Testatum conveyance.

NOW THIS INDENTURE WITNESSETH that in pursuance [*continue operative part down to the parcels as in Preced. II., sup. p.* 113]:

Parcels.

All the said hereditaments comprised in and demised by the recited lease

Habendum.

TO HOLD UNTO the said C. D. for the residue of the term granted by the said lease, at the rent and subject to the covenants by the lessee, and the conditions reserved by and contained in the said lease, and henceforth by the lessee to be paid and performed, But discharged [*continue to the end of the habendum in Preced. II., p.* 113, *substituting the recited settlement for the will. Add proviso restricting tenant for life's covenants, ib.*]:

Covenant by purchaser to pay rent, &c.

AND the said C. D. hereby covenants with the said M. and N. that he, or the persons deriving title under him, will henceforth from time to time duly pay all rent becoming due under the said lease, and observe and perform all the covenants and conditions therein contained, and henceforth on the part of the lessee to be observed or performed, And also will at all times hereafter save harmless and keep indemnified the said M. and N. and their estate and effects from and against all proceedings, claims, and expenses on account of any omission to pay the said rent or any breach of any of the said covenants or conditions.

[*Add acknowledgment by the tenant for life for production and delivery of copies of deeds in the schedule; And undertaking for safe custody, Preced. II., pp.* 113, 114.]

In witness, &c.

THE SCHEDULE above referred to.

[*Deeds to be produced.*]

See n. to Preced. II. as to notice.

CONVEYANCE OF FREEHOLDS TO THE USES OF A SETTLEMENT.

No. VII.

FREEHOLDS TO USES OF SETTLEMENT.

THIS INDENTURE made &c. between L. M. of &c. [*vendor*] of the first part, A. B. (*a*) of &c. [*tenant for life*] of the second part, and X. of &c. and Y. of &c. [*trustees*] of the third part. Parties.

Whereas the said L. M. is seised in fee simple in possession free from incumbrances of the hereditaments hereinafter conveyed: Recitals of title of vendor,

[*Recital of settlement showing limitation of freeholds to A. B. for life, with remainders over, as in Preced. No. IV.*] Settlement,

And the said indenture contained a power for the said X. and Y. to sell the hereditaments thereby settled.

And whereas the said A. B. as tenant for life in possession under the recited settlement has agreed with the said L. M. for the purchase of the fee simple in possession, free from incumbrances, of the hereditaments hereinafter conveyed at the price of £ , and has directed (*b*) the said X. and Y., as such trustees as aforesaid, to apply capital money in their hands as such trustees arising under the Settled Land Act from hereditaments comprised in the recited settlement in payment of the said price of £ . Agreement for purchase.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement, and in consideration of the sum of £ , upon the execution of these presents to the said L. M., paid by the said X. and Y. by the direction of the said A. B., the receipt of which sum the said L. M. hereby acknowledges, the said L. M. AS BENEFICIAL OWNER hereby conveys unto the said X. and Y. Testatum conveyance.

All those &c. Parcels.

TO HOLD unto the said X. and Y. in fee simple To the uses upon the trusts, and subject to the powers and provisions which under the recited settlement, or by reason Habendum.

(*a*) This deed should be executed by A. B., the tenant for life, as well as by L. M.

(*b*) See S. L. A. s. 42. This direction exonerates the trustees from liability.

CONVEYANCES.

No. VII.

of the exercise of any power of charging jointures or portions therein contained are now subsisting with respect to freehold hereditaments which are or may become subject to the limitations of that settlement, but not so as to increase or multiply charges or powers of charging.

In witness, &c.

[*Add Schedule of parcels.*]

No. VIII.

LEASEHOLDS TO TRUSTEES OF SETTLEMENT.

CONVEYANCE OF LEASEHOLDS TO TRUSTEES OF SETTLEMENT.

THIS INDENTURE made &c. [*Same parties and in same order as last Precedent.*]

Parties.

Recitals Lease.

Whereas by an Indenture of lease dated &c. and made between &c., All that piece of ground situated &c. with the messuage and other buildings thereon known as &c. were demised unto the said for the term of ninety-nine years from the day of &c., at the yearly rent after the first two years of the said term of £ , payable half-yearly on the days therein mentioned, and subject to the covenants and conditions therein contained and on the lessee's part to be performed and observed:

Assignments.

And whereas after divers mesne assignments and acts in the law, ultimately under an Indenture dated &c., and made between &c., the said premises became and are now vested in the said L. M. for the residue of the term granted by the said lease:

Settlement.

[*Recital of settlement showing that A. B. is tenant for life and that X. and Y. are trustees for sale as in last Precedent.*]

Agreement for purchase.

And whereas the said A. B. as tenant for life in possession under the recited settlement has agreed with the said L. M. for the purchase of the premises comprised in the recited lease at the price of £ , free from incumbrances, and has directed the said X. and Y. as such trustees as aforesaid to apply capital money in their hands arising under the Settled Land Act from hereditaments comprised in the recited settlement in payment of the said price of £ .

No. VIII.

Testatum conveyance.

Parcels.

Habendum.

NOW THIS INDENTURE WITNESSETH [*continue as in last Precedent down to the parcels.*]

All the said premises comprised in and demised by the recited lease,

TO HOLD unto the said X. and Y. for the residue of the term granted by the recited lease at the rent, and subject to the lessee's covenants and the conditions by and in that lease reserved and contained, and henceforth by the lessee to be paid and observed, but Upon trusts and subject to powers and provisions corresponding as nearly as the law and circumstances permit with the uses, trusts, powers, and provisions which, under the recited settlement or the exercise of any power of charging jointures or portions therein contained, are now subsisting with respect to freehold hereditaments, which are or may become subject to the limitations of that settlement, but not so as to increase or multiply charges or powers of charging, And so nevertheless that the premises hereinbefore conveyed shall not vest absolutely in any person being or becoming under the recited settlement by purchase tenant in tail [male or in tail] who shall die under the age of twenty-one years, but shall on the death of such person under that age go as if they were freehold hereditaments and were settled accordingly.

[*Covenant by A. B. during his life to pay rents, &c., adapting covenant in Precedent No. VI. p.* 120.]

In witness, &c.

See notes (*a*) and (*b*) to last Preced.

No. IX.

By Married Woman Tenant for Life.

CONVEYANCE of FREEHOLDS by a MARRIED WOMAN TENANT FOR LIFE entitled for her separate use and without power of anticipation (*a*).

Parties.

THIS INDENTURE made &c. between Jane B., the wife of W. B. of &c. [*tenant for life*] of the first part, M. of

(*a*) See S. L. A. sect. 61 (2), (5), (6).

CONVEYANCES.

No. IX.

&c. and N. of &c. [*trustees*] of the second part, and C. D. of &c. [*purchaser*] of the third part.

Recitals. Will.

Whereas John L., late of &c., deceased, by his will, dated &c., devised all his estates in the counties of &c., including the hereditaments hereinafter conveyed, To the use of his brother H. L. (since deceased) during his life with remainder To the use of his issue in tail as therein mentioned, but which limitations have failed of effect, with remainder to the use of X. Y. for a term of 100 years from the death of the said testator if his sister the said Jane B., then Jane L., should so long live without impeachment of waste, Upon trust to pay the rents and profits of the hereditaments thereby devised to the said Jane B. during her life for her separate use, and without power of anticipation during any coverture, And subject to the said term and the trust thereof To the use of the said Jane B. during her life without impeachment of waste, with remainders over; And the said will contained a power for the said M. and N. to sell the real estate thereby devised:

Death of Testator, &c.

[*Recite death of testator, probate, and seisin as in Precedent No. II., p.* 112.]

Death of H. L. without issue.

And whereas the said H. L. died on &c. without ever having had any issue:

Agreement for sale.

And whereas the said Jane B. as the person entitled for her separate use (*a*) under the recited will to the rents and profits of the hereditaments hereinafter conveyed has agreed to sell to the said C. D. for the sum of £ the hereditaments hereinafter conveyed, and the inheritance thereof in fee simple in possession free from incumbrances:

Testatum conveyance.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of £ by the direction of the said Jane B. paid by the said C. D. to the said M. and N. as trustees with power of sale under the recited will, the receipt whereof [*con-*

(*a*) See S. L. A. sect. 61 (2).

tinue and adapt Precedent No. II., p. 113, *to the end of the habendum*].

[*Add proviso restricting implied covenants by tenant for life; also, if required, acknowledgment and undertaking by her as to deeds, and schedules as in Precedent No. II., pp.* 113, 114.]

The concurrence of the husband of the tenant for life (S. L. A. s. 61 (2)), and of the trustee of the term (s. 20 (1)) is unnecessary. She sells in right of the term under s. 58 (1) (iv.), and not in right of the freehold.

The conveyance takes effect under the statutory power conferred by the Act, and though the settlement be made before 1883, so as not to give an estate to the tenant for life as *feme sole* under the Married Women's Property Act, 1882, acknowledgment under the Fines and Recoveries Act is not necessary.

Under the Married Women's Property Act, 1882, s. 1 (3) the covenant implied by the conveyance of Jane B. as beneficial owner binds her estate as if she were a *feme sole*.

See a CONVEYANCE BY TENANT FOR LIFE under a settlement on trust for sale, Precedent No. XXI., *infra*.

SECT. 3.

MORTGAGES.

MORTGAGES.

No. X.

MORTGAGE BY TENANT FOR LIFE.

MORTGAGE UNDER S. 18 BY TENANT FOR LIFE TO SECURE MONEY REQUIRED FOR ENFRANCHISEMENT.

Parties.

THIS INDENTURE made &c. between A. B. of &c. [*tenant for life*] of the first part, X. of &c. and Y. of &c. [*trustees*] of the second part, and M. of &c. [*mortgagee*] of the third part.

Recitals.

Whereas John L., late of &c. [*Recite his will showing the devise of freeholds down to the limitation to the tenant for life* "with remainders over" *as in Preced. No. II., p.* 112, *and that it empowered the said X. and Y. to sell the real estate.*]

[*Recite death of the testator, probate of his will, and seisin, as in same Preced., and that no money has been raised, pp.* 112, 113.]

Agreement for loan.

And whereas the said A. B., as tenant for life in possession under the recited will requires to raise the sum of £ for effecting an enfranchisement of copyhold hereditaments held on the trusts of the said will and the said M. has agreed to advance the same sum upon having the repayment thereof with interest as hereinafter mentioned secured as hereinafter appearing:

Testatum conveyance by way of mortgage.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement in this behalf, and in consideration of the sum of £ , upon the execution of these presents paid by the said M. at the request of the said A. B. to the said X. and Y., as the trustees with power of sale under the said will, the receipt of which sum of £ the said X. and Y. hereby acknowledge, the said A. B., in exercise of the power for this purpose conferred on him as tenant for life in possession by the Settled Land Act (*a*), and of every other power enabling him, and AS BENEFICIAL OWNER, hereby conveys unto the said M.

Parcels.

All &c.

(*a*) S. 18.

TO HOLD UNTO AND TO THE USE of the said M. in fee simple, Discharged from all the limitations, powers, and provisions of the will of the said John L., and from all estates, interests, and charges subsisting or to arise thereunder, But subject to the proviso for redemption hereinafter contained (that is to say):

Habendum.

IT IS HEREBY PROVIDED and agreed that on payment on the day of next by the said A. B., or the person or persons for the time being deriving title under the will of the said John L. to the said M., or the persons deriving title under him, of the sum of £ , with interest thereon in the meantime at the rate of per cent. per annum, the premises hereinbefore conveyed shall, at the request and cost of the said A. B. or the person or persons deriving title to the said premises under the will of the said John L., be duly reconveyed, To the uses upon the trusts and subject to the powers and provisions which shall be for the time being subsisting under the said will with respect to the premises.

Proviso for redemption.

And the said A. B. hereby covenants with the said M. that he the said A. B. will during his life pay to the said M. interest at the rate of per cent. per annum on the said sum of £ , or on so much thereof as shall for the time being remain unpaid by equal half-yearly payments on the day of , and the day of in every year.

Covenant by tenant for life to pay interest during his life.

AND IT IS HEREBY AGREED that so long as any money remains due on this security, the said A. B., or the persons deriving title under the will of the said John L., will not, without the consent in writing of the said M., or the persons deriving title under him, lease or agree to lease the said premises hereby conveyed, or any part thereof, for any term or terms exceeding twenty-one years, nor otherwise than at the best rent to be reasonably obtained without taking a fine.

Restriction on power of leasing.

In witness, &c.

THE SCHEDULE above referred to.

[*To contain the parcels.*]

MORTGAGES.

No. X.

Powers supplied by statute.

The mortgagee's powers of sale and of giving receipts are supplied by the Conveyancing Act of 1881, ss. 19–22.

Covenant for title.

In a mortgage the tenant for life would generally be required to give unrestricted covenants for title.

As to notice.

One calendar month's previous notice of the intention of the tenant for life to make this mortgage should be given by him (S. L. A. s. 45) in cases where the settlement does not dispense with notice, but the mortgagee is not concerned to see that notice has been given: (sub-s. (3).)

Trustees' receipt.

The mortgagee is not concerned to see that the money advanced is required to be raised (S. L. A. s. 40).

No. XI.

SUBSTITUTED SECURITY UNDER S. 5 GIVEN BY TENANT FOR LIFE TO A MORTGAGEE WHO ON A SALE HAS RELEASED HIS ORIGINAL SECURITY.

SUBSTITUTED SECURITY BY TENANT FOR LIFE.

Parties.

THIS INDENTURE made &c. between A. B. of &c. [*tenant for life*] of the one part, and M. of &c. [*mortgagee*] of the other part.

Recitals.

Mortgage.

Whereas by an indenture of mortgage dated &c., and made between &c., the hereditaments therein mentioned were conveyed unto and to the use of the said M. in fee simple by way of mortgage for securing payment to him of £5000, with interest thereon at the rate of 4 per cent. per annum, on the day therein mentioned, and since passed:

Settlement.

And whereas by an indenture dated &c., and made between the said A. B. of the first part, Jane L., of the second part, and H. and N. of the third part (being a settlement made in consideration of the marriage then intended and afterwards solemnized between the said A. B. and Jane L.), the hereditaments comprised in the recited mortgage, were, with the hereditaments hereinafter conveyed and other hereditaments (subject as to the premises affected thereby to the said mortgage, and the said sum of £5000 and interest thereby secured), limited after the solemnization of the said marriage To the use of the said A. B. for his life, with remainders over:

Sale by tenant for life of the

And whereas the said A. B., as tenant for life in posses-

sion under the said settlement has, with the concurrence of the said M., sold the said hereditaments comprised in the said mortgage for the sum of £10,000, And by an indenture bearing even date with, but executed before these presents, and made between &c., the same hereditaments have, with other hereditaments, subject to the like uses, been conveyed and released unto and to the use of the said [*purchaser*] discharged from the said sum of £5000 and interest, and all claims and demands under the said mortgage:

hereditaments mortgaged.

Conveyance thereof released from mortgage.

And whereas the said sum of £5000, with interest thereon from the day of last [*the last day appointed for payment of interest by the original mortgage, or otherwise, as the case may be*], is still due to the said M.:

That principal and interest still due.

And whereas the said M. concurred in the said indenture of even date herewith, in consideration of having a substituted security made to him in manner hereinafter appearing for payment of the said sum of £5000, and the interest due and to become due thereon:

Agreement for substituted security.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement, and in consideration of the premises, the said A. B., in exercise of the power for this purpose conferred on him as tenant for life in possession by the Settled Land Act (*a*), and of every other power enabling him, and AS BENEFICIAL OWNER, hereby charges the hereditaments hereinafter conveyed with the payment of the said sum of £5000, and all interest due and to become due thereon, in substitution for and exoneration of the hereditaments so sold as aforesaid.

First testatum charge.

AND THIS INDENTURE ALSO WITNESSETH that in further pursuance of the said agreement, and for the consideration aforesaid, the said A. B. in exercise of [*continue and adapt the last Precedent to the end, the tenant for life covenanting to pay interest* "as from the day of " (*being the day down to which interest has been paid*) *and the days for payment of interest being made to correspond with those*

Second testatum conveyance.

(*a*) S. 5.

MORTGAGES.

No. XI.

in the original mortgage, and add an acknowledgment and undertaking by him in regard to the settlement.]

In witness, &c.

THE SCHEDULE above referred to

[*To contain the parcels.*]

See notes at the end of last Precedent.

No. XII.

SUBSTITUTED SECURITY BY TENANT FOR LIFE.

SUBSTITUTED SECURITY UNDER S. 24 (4) GIVEN BY TENANT FOR LIFE TO A MORTGAGEE WHO ON AN EXCHANGE HAS RELEASED HIS ORIGINAL SECURITY (*a*).

Parties.

THIS INDENTURE made &c. between A. B. of &c. [*tenant for life*] of the one part, and M. of &c. [*mortgagee*] of the other part.

Recitals. Mortgage Settlement

[*Recite mortgage and settlement as in the last Precedent, but omitting the words in the settlement* "with the hereditaments hereinafter conveyed and" *at p.* 128.]

That the hereditaments mortgaged were given in exchange.

And whereas the said A. B. as tenant for life in possession under the said settlement, with the concurrence of the said M., gave the hereditaments comprised in the said mortgage in exchange for the hereditaments hereinafter conveyed, And by an indenture bearing even date with, but executed before these presents, and made between &c., the hereditaments comprised in the said mortgage were conveyed and released unto and to the use of the said discharged from the said sum of £5000 and interest, and all claims and demands under the said indenture of mortgage:

Conveyance thereof released from mortgage.

Conveyance of hereditaments taken in exchange

And whereas by a second indenture bearing even date with, but executed before these presents, and made between &c., in consideration of the conveyance effected

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(*a*) Another mode of effecting this transaction would be to have the mutual conveyances on the exchange included in one deed. The mortgagee would join to release the land given by the tenant for life in exchange, and the land taken would be conveyed to the mortgagee in fee subject to the same right of redemption by the persons entitled under the settlement.

by the first mentioned indenture of even date herewith the hereditaments hereinafter conveyed were, by the direction of the said A. B., conveyed to the uses, on the trusts, and subject to the powers and provisions which, under the recited settlement, or by reason of the exercise of any power of charging jointures or portions therein contained, are subsisting with respect to the hereditaments thereby settled, or as near thereto as circumstances permit, but not so as to increase or multiply charges or powers of charging :

To the uses of the settlement.

And whereas the said sum of £5000, with interest thereon from the day of last [*the last day appointed for payment of interest by the original mortgage, or otherwise, as the case may be*], secured by the said mortgage, is still due to the said M :

That principal and interest still due.

And whereas the said M. concurred in the first mentioned indenture of even date herewith, in consideration of having a substituted security made to him in manner hereinafter appearing for payment of the said sum of £5000, and the interest due and to become due thereon :

Agreement for substituted security.

NOW THIS INDENTURE WITNESSETH, that in pursuance of the said agreement in this behalf, and in consideration of the premises, the said A. B., in exercise of the power for this purpose conferred on him as tenant for life in possession by the Settled Land Act (*a*), and [*continue and adapt operative part from Precedent X., sup. pp.* 126, 127, *to the end, the tenant for life covenanting to pay interest* "as from the day of " (*being the day down to which interest has been paid*), *and the days for payment of interest being made to correspond with those in the original mortgage. Add acknowledgment, and undertaking by him in regard to the settlement.*]

Testatum conveyance.

In witness, &c.

THE SCHEDULE above referred to

[*To contain the parcels.*]

See notes at the end of Precedent X., p. 128.

(*a*) Sect. 24 (4).

SECT. 4.

PARTITION. PARTITION AND EXCHANGE

No. XIII. DEED OF PARTITION BETWEEN TWO TENANTS FOR LIFE OF SURFACE ONLY. Grant of mutual rights as to minerals. Money paid for equality of partition; an annuitant concurring.

Parties. THIS INDENTURE, made &c. between G. L. B. of &c. [*tenant for life of one moiety*] of the first part, H. M. A. of &c. [*tenant for life of other moiety*] of the second part, P. M. of &c., E. C. M. of &c., and J. A. of &c. [*trustees of settlement, E. C. M. also an annuitant*] of the third part, and the said J. A. and W. A. of &c. [*trustees of will*] of the fourth part. (*a*)

Recitals. Settlement of one moiety. Whereas by an indenture of settlement dated, &c., and made between F. B. B., since deceased, of the first part, J. F. B., since deceased, of the second part, J. H. H., since deceased, and the said P. M. and E. C. M. of the third part, and J. T. and W. W. W. of the fourth part, certain hereditaments in the county of C., including one undivided moiety of the L. estate hereinafter mentioned, were appointed and assured subject to certain estates, charges, and incumbrances affecting the same (all of which have since determined, failed, or been extinguished, except the annuity hereinafter mentioned), To the use of the said J. T. and W. W. W. for the term of ninety-nine years Upon the trusts thereinafter declared concerning the same, with remainder To the use of the said J. F. B., deceased, for life, without impeachment of waste, with remainder To the use of the said J. H. H., P. M., and E. C. M., for the term of ninety-nine years, Upon the trusts thereinafter declared concerning the

(*a*) It will be seen that J. A. being a trustee of both settlements, the partition could not have been made under powers in the settlement and will.

same, with remainder To the use of the sons of the said J. F. B. successively according to seniority in tail male, with remainder To the use of A. B., since deceased, for life, without impeachment of waste, with remainder To the use of the sons of the said A. B. successively according to seniority in tail male, with remainder To the use of the said G. L. B. for life, without impeachment of waste, with remainders over and with an ultimate limitation To the use of the said J. F. B. in fee simple, And the trusts of the said first term of ninety-nine years were declared to be for raising any money which might be required for indemnifying the said F. B. B. from any claim which might be made against her in respect of any leases granted in excess of her powers in that behalf, And the trusts of the said second term of ninety-nine years were declared to be for the purpose of enabling the said J. H. H., P. M., and E. C. M. to enter into the possession or receipt of the rents and profits of the said hereditaments during the minority of any person entitled thereto, and to manage the same as therein mentioned, And the said indenture contained powers for each of the tenants for life thereunder to charge the said hereditaments with a jointure and with portions for his younger children, and certain other powers of charging, and also a power for the said J. H. H., P. M., and E. C. M. to sell the said hereditaments or any part thereof:

Death of prior tenants for life without issue.

And whereas the said J. F. B. died on &c., without ever having had any issue, and the said A. B. died on &c., without ever having had any issue:

Will settling remainder in fee in the said moiety.

And whereas the said J. F. B. by his will dated &c., and proved in the Principal Probate Registry on the day of , devised his remainder in fee simple in the hereditaments comprised in the said settlement To the use of J. R. for his life, without impeachment of waste, with remainder To the use of his sons successively according to seniority in tail male, with remainders over:

Appointment of a new trustee.

And whereas by an indenture dated &c., the said J. A. was in exercise of a power for that purpose contained in the said settlement duly appointed a trustee thereof in

PARTITION.

No. XIII.

the place of the said J. H. H., who had died on &c., and to act jointly with the said P. M. and E. C. M.:

Charge affecting the said moiety.

And whereas the undivided moiety comprised in the aforesaid settlement is now charged with an annuity of £ per annum payable to the said E. C. M. during his life, bequeathed to him by the will dated &c. of the said F. B. B., and secured by a term of years, created by an indenture dated &c., and now vested in J. G. D., which annuity is in effect a charge having priority to the limitations of the said settlement, and is the only subsisting charge on the said undivided moiety having such priority, and no money has been actually raised upon security of the said undivided moiety under any of the trusts or by the exercise of any of the powers contained in the said recited settlement or will:

That no money has been raised on charges.

Will settling other moiety.

And whereas J. M. A., deceased, late of &c., by his will dated &c., and proved in the Prerogative Court of Canterbury on &c., after providing that in case his personal estate should be insufficient for the payment of all his just debts and funeral and testamentary expenses, then his real estate should be charged with the deficiency, devised all his lands and hereditaments in the county of C. or elsewhere, including the other undivided moiety of the said L. estate, To the use of E. A. and J. B. both since deceased for the term of 100 years Upon the trusts thereinafter contained concerning the same, with remainder To the use of H. M., since deceased, for his life, without impeachment of waste, with remainder To the use of H. J. A., since deceased, for his life without impeachment of waste, with remainder To the use of the sons of the said H. J. A. successively according to seniority in tail male, with remainder To the use of the said H. M. A. for his life, without impeachment of waste, with remainders over, And it was thereby declared that the said term of 100 years was limited Upon trust to raise the several annuities in the said will mentioned, And the said will contained powers for each male tenant for life thereunder entitled in possession to charge the said hereditaments with a jointure and with

portions for his younger children, And also a power for the said E. A. and J. B., or the survivor of them or other the trustees appointed in their place, to sell the said hereditaments or any part thereof:

And whereas the said H. M. died on &c.

Death of prior tenants for life; failure of prior tenants in tail.

And whereas the said H. J. A. died on &c., without ever having had any issue:

Appointment of new trustees of will.

And whereas by an indenture dated &c., the said J. A. and W. A. were, in exercise of a power for that purpose contained in the last recited will, duly appointed trustees thereof in the place of the said E. A. and J. B., who had died:

That no charge on last mentioned moiety has priority to will,

And no money raised on other charges.

And whereas there is no charge upon the undivided moiety of the said L. estate devised by the last recited will, which has priority to the limitations of the same will, and no money has been actually raised upon the security of the last-mentioned undivided moiety under any charge or trust or by the exercise of any power contained therein:

Agreement for partition.

And whereas the said G. L. B. and H. M. A., as the respective tenants for life of the said undivided moieties of the said L. estate, have agreed to make such a partition as hereinafter effected of the surface only of the said estate, and that the sum of £ should be paid for equality of partition by the trustees of the last recited will to the trustees of the recited settlement of &c., and that these presents should contain such exceptions, reservations, and provisions as are hereinafter expressed:

First testatum conveyance of one moiety.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of £ upon the execution of these presents by the said J. A. and W. A. (as trustees of the will of the said J. M. A. out of money in their hands liable to be laid out in the purchase of land), and by the direction of the said H. M. A., paid to the said P. M., E. C. M., and J. A. (as trustees of the power of sale contained in the said settlement) the receipt of which sum of £ the said P. M., E. C. M., and J. A. hereby acknowledge, the said G. L. B. AS BENEFICIAL OWNER, and by virtue of the power for this

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purpose conferred on him by the Settled Land Act, as tenant for life in possession under the said settlement and of every other power enabling him, hereby conveys and the said E. C. M. for the purpose of releasing his said annuity of £ per annum hereby releases and confirms unto the said J. A. and W. A.:

Release of annuity.

Parcels.

All that the one undivided moiety being the moiety comprised in and assured by the recited settlement of and in All those the lands and hereditaments situated in the parish of X. and county of C., containing or thereabouts, more particularly described in the first schedule hereto, which said lands and hereditaments are part of the lands and hereditaments known as the L. estate, and are intended to be delineated in the plan drawn on the skin of these presents and to be thereon coloured Save and except nevertheless out of the conveyance hereinbefore made and reserving unto the said G. L. B. and the persons for the time being deriving title under the limitations of the said settlement of &c., and the will of the said J. F. B., all mines, minerals, and mineral substances in or under the said premises, and all springs, drains, channels, waters, and watercourses in, under, or running through or on the premises hereinbefore described or any part thereof, And (by way of conveyance and not of exception) together with all the powers, rights, liberties, and privileges hereinafter specified and conferred on the persons for the time being entitled to the respective undivided moieties of the said excepted and reserved mines, minerals, and mineral substances under the recited settlement and the will of the said J. F. B. and the will of the said J. M. A., and so that such persons respectively may be henceforth entitled to work and get the same mines, minerals, and mineral substances subject to the provisions and upon the terms and in manner hereinafter in that behalf specified To HOLD to the said J. A. and W. A. in fee simple discharged from the said annual sum of £ payable to the said E. C. M., and from all the uses, trusts, and limitations affecting the said undivided moiety hereinbefore conveyed

Reservation of mines and minerals.

Grant of powers to work mines.

Habendum.

under the said settlement, or the said will of the said J. F. B., or the exercise of any power contained in the same settlement or will To the uses upon the trusts and subject to the charges, powers, and provisions which under the said will of the said J. M. A., or under the exercise of any power to appoint or charge jointures or portions therein contained, are now subsisting and capable of taking effect with respect to the other undivided moiety of the premises hereinbefore conveyed, being the undivided moiety devised by the last-mentioned will, but not so as to increase or multiply charges or powers of charging.

Second testatum conveyance of other moiety.

AND THIS INDENTURE ALSO WITNESSETH, that in further pursuance of the said agreement, and in consideration of the conveyance contained in the last preceding witnessing part of these presents, the said H. M. A. AS BENEFICIAL OWNER and by virtue of the powers conferred on him by the Settled Land Act, as tenant for life in possession under the will of the said testator J. M. A., and of every other power enabling him, hereby conveys unto the said P. M., E. C. M., and J. A.

Parcels.

All that the one undivided moiety being the undivided moiety devised by the will of the said testator J. M. A. of and in All those the lands and hereditaments situated in the parish of X. and county of C., containing or thereabouts, more particularly described in the second schedule hereto, which said lands and hereditaments lastly hereinbefore described form the residue of the said lands and hereditaments known as the L. estate, and are intended to be delineated in the said plan drawn on the skin of these presents and to be thereon coloured Save and except nevertheless out of the conveyance lastly hereinbefore made, and reserving unto the said H. M. A. and the persons for the time being deriving title under the limitations of the will of the said testator J. M. A. all mines, minerals, and mineral substances in or under the said premises, and all springs, drains, channels, waters, and watercourses in, under, or running through or on the premises herein-

Reservation of mines and minerals.

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Grant of powers to work mines.

before described or any part thereof, And (by way of conveyance and not of exception) together with all the powers, rights, liberties, and privileges hereinafter specified and conferred on the persons for the time being entitled to the respective undivided moieties of the said excepted and reserved mines, minerals, and mineral substances under the recited settlement and the will of the said J. F. B. and the will of the said J. M. A., and so that such persons respectively may be henceforth entitled to work and get the same mines, minerals, and mineral substances subject to the provisions and upon the terms and in manner hereinafter in that behalf specified

Habendum.

To HOLD to the said P. M., E. C. M., and J. A. in fee simple discharged from all the uses, trusts, and limitations affecting the said undivided moiety lastly hereinbefore conveyed under the will of the said testator J. M. A., or the exercise of any power therein contained, To the uses upon the trusts and subject to the charges, powers, and provisions which, under the instruments charging the said annuity in favour of the said E. C. M. and under the recited settlement, and the said will of the said J. F. B. taken together or under the exercise of any power to appoint or charge jointures or portions or other sums contained in the said settlement or the last mentioned will are now subsisting and capable of taking effect with respect to the other undivided moiety of the premises lastly hereinbefore described, being the undivided moiety comprised in and assured by the said settlement but not so as to increase or multiply charges or powers of charging.

Powers included in conveyance.

And each of them the said G. L. B. and H. M. A. hereby covenants and declares with and to the other of them that the powers, rights, and privileges which are to be included in the respective conveyances hereinbefore contained, and are to be conferred on the persons for the time being entitled to the respective undivided moieties of the mines, minerals, and mineral substances hereinbefore excepted and reserved are the following, and that the persons respectively entitled may henceforth work and get the said mines, minerals, and mineral substances,

Reservation of mining powers.

subject to the provisions and upon the terms and in manner following (that is to say):

1. The persons for the time being deriving title under the recited settlement and first recited will, and the persons for the time being deriving title under the secondly recited will, and their respective licensees shall have full and free right, power, and liberty at all times and for ever hereafter to enter upon and occupy the surface of the lands comprised in the two first schedules hereto, and every or any part thereof, and to sink and search for, work, win, get, bank, lay up, store, smelt, burn, dress, convert, and carry away the mines, minerals, and other substances thereunder, and also any mines, minerals, or other substances under any other lands, but so as to leave sufficient vertical or lateral support for the surface of the lands comprised in the two first schedules hereto, or any building now standing or which may hereafter be erected thereon; And for the purposes aforesaid or any of them to sink pits and shafts, erect buildings, furnaces, ovens, machinery, engineering and other works and apparatus, and to make and use railroads and other roads, pit-hills, and spoil banks, and also to dig and get brick-earth and sand and to make bricks for use in building on the said lands for any of the purposes aforesaid or in the mines under the same or in mines connected therewith, but not for use in any other way, and to make drains, watercourses, ponds, and reservoirs, and collect water and to do upon over and under the surface of the said lands all things which may be found necessary, expedient or convenient for the purposes aforesaid or any of them.

2. The net profits of all workings under the last preceding clause shall, after allowing for all costs and expenses properly incurred, belong as to one moiety to the persons deriving title under the recited settlement, and first recited will, and as to the other moiety to the persons deriving title under the secondly recited will.

3. Without prejudice to any compensation which may be paid or made by miners, licensees or other persons as hereinafter mentioned, there shall not be any compensa-

PARTITION. No. XIII.

tion whatever paid by or claimed from any person or persons entitled under the reservations hereinbefore contained, or by or from his or their respective lessees or tenants for damage done in exercising the rights, powers, privileges, and liberties hereinbefore reserved, except compensation for subsidence of the surface consequent upon insufficient vertical or lateral support.

4. All water raised from workings and all other waters, with the necessary watercourses for conveying the same, shall remain the property of the persons who would have been respectively entitled thereto if these presents had not been executed.

5. All rents or dues arising from mining licences or payable for water used in workings or manufacture, or for any other purpose within or under the lands comprised in the two first schedules hereto, shall belong as to one moiety to the persons for the time being deriving title under the recited settlement and first recited will as incident to the surface of the lands comprised in the first schedule, and as to the other moiety shall belong to the persons for the time being deriving title under the secondly recited will as incident to the surface of the lands comprised in the second schedule.

6. The respective persons entitled for the time being in severalty to the surface of the lands comprised in the two first schedules hereto shall be entitled to compensation from miners, licensees, and other persons depositing spoil upon, or using in any other manner, such surface or any part thereof.

[*Add proviso limiting implied covenants by tenants for life as in Preced. No. II., p.* 113, *and acknowledgment and undertaking by G. F. B. as to documents in the third schedule, and by H. M. A. as to those in the fourth schedule, pp.* 113, 114.]

In witness, &c.

[*Add two schedules containing particulars of the lands, and two containing lists of documents.*]

CONVEYANCE on an EXCHANGE between a TENANT FOR LIFE and an OWNER IN FEE SIMPLE, an annuitant concurring. No. XIV. EXCHANGE.

THIS INDENTURE made &c. between G. L. B. of &c. of the first part, W. R. W. of &c. of the second part, and E. C. M. of &c. of the third part: Parties.

WHEREAS by an indenture of settlement dated &c., and made between &c., the lands and hereditaments hereinafter mentioned and conveyed by the first witnessing part of these presents, were conveyed &c. [*continue recital of settlement under which G. L. B. is tenant for life, and the recital of the will devising the remainder in fee, and other recitals relating to the title of G. L. B. as in the last Precedent.*] Recitals. Settlement.

And whereas the said W. R. W. is seised in fee simple in possession free from incumbrances of the lands and hereditaments hereinafter mentioned and conveyed by the second witnessing part of these presents: Seisin in fee.

And whereas the said G. L. B. as tenant for life in possession of the hereditaments settled by the recited settlement, and the said W. R. W. have agreed to make such exchange as is hereinafter effected: Agreement to exchange.

NOW THIS INDENTURE FIRSTLY WITNESSETH that in pursuance of the said agreement and in consideration of the conveyance in exchange made by the second witnessing part of these presents, the said G. L. B. AS BENEFICIAL OWNER, and by virtue of the powers conferred on him by the Settled Land Act, as tenant for life in possession under the recited settlement, and of every other power enabling him in this behalf, hereby conveys, and the said E. C. M. for the purpose of releasing his said annuity hereby releases unto the said W. R. W. First testatum conveyance by tenant for life.

ALL those pieces of land containing together a. r. p. or thereabouts, situated in the parish of and county of , the particulars whereof are contained in the first schedule hereto, Parcels.

TO HOLD unto and To the use of the said W. R. W. in fee simple discharged from the said annuity payable to Habendum.

EXCHANGE.

No. XIV.

the said E. C. M., and from all the uses, trusts, and limitations affecting the premises hereinbefore conveyed under the recited settlement and will, or in exercise of any power therein respectively contained, the said premises hereinbefore conveyed to be in exchange for the lands and hereditaments conveyed by the second witnessing part of these presents.

Second testatum, conveyance by owner in fee.

AND THIS INDENTURE SECONDLY WITNESSETH that in further pursuance of the said agreement, and in consideration of the conveyance contained in the first witnessing part of these presents the said W. R. W. AS BENEFICIAL OWNER hereby conveys unto the said E. C. M.

Parcels.

All those pieces of land containing together a. r. p. or thereabouts, situated in the parish of in the county of , the particulars whereof are contained in the second schedule hereto,

Habendum.

TO HOLD to the said E. C. M. in fee simple, To the uses upon the trusts and subject to the charges, powers, and provisions, which under the instruments charging the said annuity in favour of the said E. C. M., and under the recited settlement and the recited will of J. F. B. taken together or under the exercise of any power of jointuring or charging portions or other sums contained in the said settlement or will are now subsisting and capable of taking effect with respect to the hereditaments comprised in the said settlement, but so as not to increase or multiply charges or powers of charging, the said premises lastly hereinbefore conveyed to be in exchange for the premises conveyed by the first witnessing part of these presents.

[*Add proviso limiting G. L. B.'s implied covenants for title and acknowledgments and undertakings as to documents as in the last precedent.*]

In witness, &c.

[*Add two schedules containing particulars of the lands, and two schedules containing lists of documents.*]

SECT. 5.

SETTLEMENTS.

No. XV.

FREEHOLDS, COPYHOLDS, AND LEASEHOLDS.

ANTE-NUPTIAL SETTLEMENT of FREEHOLDS, COPYHOLDS, and LEASEHOLDS, As to FREEHOLDS to the use that the WIFE shall receive a rent-charge as PIN-MONEY (without the intervention of a trustee); subject thereto, To HUSBAND for LIFE, with remainder subject to JOINTURE RENT-CHARGE for wife, To TRUSTEES for a term to raise PORTIONS, remainder To the first and other SONS of the marriage successively in TAIL MALE and IN TAIL, remainder to the DAUGHTERS of the marriage as TENANTS IN COMMON IN TAIL, with cross remainders in tail. POWER for husband to JOINTURE and RAISE PORTIONS on FUTURE MARRIAGE. POWER to SELL or LEASE principal MANSION-HOUSE and demesnes, To LEASE WITHOUT NOTICE under S. L. A., s. 45, To RETAIN the whole of MINING RENTS. APPOINTMENT of TRUSTEES for the purposes of the S. L. A., and of s. 42 of the C. A., 1881. POWER to pay CAPITAL MONEY to a SINGLE TRUSTEE. NOTICES under s. 45 of the S. L. A. to be valid though only ONE TRUSTEE in existence. Large POWERS of INVESTMENT of CAPITAL MONEY and surplus RENTS AND PROFITS. DESTINATION of ACCUMULATED surplus RENTS AND PROFITS where infant dies under twenty-one without leaving issue inheritable. COVENANT to SURRENDER COPYHOLDS and ASSIGNMENT of LEASEHOLDS upon trusts corresponding with uses of freeholds.

Parties.

THIS INDENTURE made &c. between John M. of &c. [*the husband*] of the first part, Ann N. of &c., spinster [*the wife*], of the second part, and X. of &c. and Y. of &c. of the third part [*portion trustees* (*a*)], and the said X. and

(*a*) Two of these trustees are also made parties of the third part, and the latter are appointed trustees of the settlement and trustees for

SETTLEMENTS.

No. XV.

Y. and Z. of &c. (which three last-named persons are hereinafter called the trustees) of the fourth part,

First testatum conveyance of freeholds.

FIRSTLY WITNESSETH that in pursuance of an agreement made on the treaty for the marriage which has been agreed upon and is intended to be solemnized between the said John M. and Ann N., and in consideration thereof the said John M. AS SETTLOR, with the approbation of the said Ann N., hereby conveys unto the trustees,

All those manors or reputed manors of &c., and all that mansion-house situated &c., and known as house, and the demesnes thereof,

And also all those messuages, lands, and hereditaments situated in the county of &c., a particular whereof is contained in the first schedule hereto,

Habendum.

To settlor until marriage.

After marriage.

TO HOLD unto the trustees in fee simple TO THE USE of the said John M. in fee simple until the said intended marriage shall be solemnized, And after the solemnization thereof,

Pin-money for wife.

TO THE USE that [*limitation of rent-charge for wife's pin-money, Form No.* 1.]

Husband for life.

And subject to the said rent-charge, TO THE USE of the said [*husband*] during his life without impeachment of waste,

Jointure rent-charge.

With remainder TO THE USE that [*limitation of jointure rent-charge, Form No.* 3];

Portion term.

And subject to the last mentioned rent-charge, TO THE USE of the said X. and Y. [*limitation to trustees for a term of years to secure portions, Form No.* 4];

Sons successively in tail, &c.

Daughters in tail.

And subject thereto TO THE USE of the first and other sons [*limitations to first and other sons successively in tail male and in tail, and to daughters as tenants in common in tail with cross-remainders in tail, Form No.* 5];

Settlor in fee.

With remainder TO THE USE of the said [*husband*] in fee simple.

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exercising the powers of management and other powers conferred by the C. A., 1881, s. 42. It is convenient to separate them, so as to keep their respective investments distinct, at least so long as the settlement trustee, who is not also a portion trustee, continues to act.

AND IT IS HEREBY DECLARED [*trusts of term for securing portions, Form No.* 9;

Appointment of trustees for purposes of S. L. A. and C. A. 1881, *s.* 42; *Single trustee to exercise powers of S. L. A., Form No.* 18;

Destination of accumulations during minorities, Form No. 19;

Power to jointure, Form No. 10; *and charge portions on future marriage, Form No.* 11;

Mansion, &c., may be sold or leased, Form Nos. 22 & 23;

Notices dispensed with, Form No. 24.

Whole rent under mining lease to go to tenant for life, Form No. 29;

Investment of capital money and surplus rents and profits, Form No. 32.

For other additional powers required see General Forms pp. 99–103].

Trusts of portion term.

Appointment of trustees.

Accumulations during minorities.

Power to charge jointure. And portions.

Power to sell or lease Mansion, &c., Additional powers.

AND THIS INDENTURE SECONDLY WITNESSETH, that in further pursuance of the said agreement, and for the consideration aforesaid, the said John M. AS SETTLOR, with the approbation of the said Ann N., hereby covenants with the trustees, That he and all other necessary parties will forthwith, after the solemnization of the said intended marriage, at the cost of the trust estate, surrender into the hands of the respective lords or ladies of the manors of &c. according to the customs thereof,

2nd testatum, covenant to surrender copyholds.

All those messuages, lands, and hereditaments, the particulars whereof are contained in the second schedule hereto (to which premises the said John M. was admitted tenant at Courts held for the said respective manors on the &c.),

To THE USE of the trustees and their heirs according to the customs &c. [*continue trusts of copyholds to correspond with uses of freeholds, Form No.* 14].

Habendum.

AND THIS INDENTURE THIRDLY WITNESSETH that in further pursuance of the said agreement, and for the consideration aforesaid, the said John M. AS SETTLOR, with the approbation of the said Ann N., hereby assigns unto the trustees,

3rd testatum assignment of leaseholds.

SETTLEMENTS.

No. XV.

All the leasehold messuages, lands, and hereditaments comprised in the several leases, the dates of, the parties to and the terms granted by which, and a short particular of the hereditaments thereby demised, are contained in the third schedule hereto:

Habendum.

TO HOLD to the trustees for the residues of the respective terms for which the said premises are respectively held at the several rents mentioned in the same schedule, And subject to the lessee's covenants and the conditions in the said leases respectively contained and henceforth to be paid and observed, UPON TRUST [*trusts of leaseholds to correspond with the uses of freeholds, Form No.* 15;

Trusts for renewals, Form No. 16;

Power to appoint new trustees, Form No. 21].

In witness, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

Particulars of freehold hereditaments.

THE SECOND SCHEDULE ABOVE REFERRED TO.

Particulars of copyhold hereditaments.

THE THIRD SCHEDULE ABOVE REFERRED TO.

Particulars of leasehold hereditaments.

Description.	Term.	Date.	Parties.	Rent.

No. XVI.

BY FATHER AND ELDEST SON.

ANTE-NUPTIAL SETTLEMENT by FATHER AND HIS ELDEST SON, on the marriage of the son, of two estates, of one of which the father is tenant for life and the son tenant in fee simple in remainder, subject to jointure

rent-charges, and of the other of which the father is seised in fee. LIMITATION of the last-mentioned estate so as to CHARGE it as far as may be EXCLUSIVELY with the EXISTING RENT-CHARGES in exoneration of money liable to be laid out in land and charged therewith. LIMITATION of a RESIDENCE for use of the son during his father's life; and of RENT-CHARGES for the SON and his WIFE successively, payable in different events. LIMITATIONS to FATHER and SON successively for LIFE with remainder to ISSUE MALE of son AS HE SHALL APPOINT, and in default to his first and other sons in tail male. POWER for FATHER to CHARGE for his own benefit, and other powers. DECLARATION that land purchased under the father's marriage settlement and money liable to be laid out in land thereunder shall go as land and money under this settlement. APPOINTMENT of TRUSTEES for the purposes of the S. L. A. and s. 42 of the C. A. 1881, and other provisions.

THIS INDENTURE made &c. Between H. C. of &c. of the first part, G. C. of &c. (the eldest son and heir apparent of the said H. C.) [*husband*] of the second part, The Honourable M. T., commonly called Lady M. T., daughter of &c. [*wife*] of the third part, and W. of &c., X. of &c., Y. of &c., and Z. of &c. (which four last-mentioned persons are hereinafter called the trustees) of the fourth part. Parties.

Whereas a marriage has been agreed upon and is intended to be solemnized between the said G. C. and and Lady M. T.: Recitals of intended marriage of son.

And whereas under an indenture of settlement (hereinafter referred to as the recited settlement) dated &c. 1846, and made between &c. (being a settlement made previously to and in consideration of the marriage then intended, and afterwards solemnized between the said H. C. and S. H. (now S. C. his wife), and an indenture dated &c. 1873, duly enrolled and perfected as a Disentailing Assurance, and made between &c. (being a conveyance by way of Of father's marriage settlement, and of disentailing assurance

SETTLEMENTS.

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affecting hereditaments first mentioned.

disentail by the said G. C. subject to the estate for life of the said H. C. under the aforesaid settlement), the manors, lands, and hereditaments first hereinafter mentioned and conveyed now stand limited (subject as to all the said hereditaments, except those situated in the parish of A., to a jointure rent-charge of £2000 per annum, payable to S. M. C., the mother of the said H. C., during her life, with usual powers and remedies for recovery thereof by distress and entry, and to a term of years for further securing the same, and subject, as to such of the said hereditaments as are situated in the parish of A., to the mortgage for £ mentioned in the third schedule hereto) To the use of the said H. C. for his life, without impeachment of waste, with remainder To the use that the said S. C. may, if she survive the said H. C., receive thereout during her life a jointure rent-charge of £1500 per annum, with the usual powers and remedies for recovery thereof by distress and entry, and subject thereto To the use of trustees for a term of years upon trusts for securing the said jointure rent-charge, with remainder To the use of the said G. C., his heirs and assigns, And the said settlement contains a power of sale and exchange of the hereditaments thereby settled exerciseable by trustees during the life of the said H. C. with his consent, and also contains the then usual directions as to the re-investment in the purchase of land of the moneys arising by sale or exchange, and the said indenture also contains powers of leasing and other powers exerciseable by the said H. C. during his life, all which powers are still subsisting:

Sales and exchanges; part of the proceeds not to be included in this settlement.

And whereas divers sales and exchanges have been made under the said power of sale and exchange and certain of the moneys arising thereby have not yet been re-invested in the purchase of land, but it is not intended to include in these presents such moneys or the investments representing the same or the hereditaments to be purchased therewith:

That father entitled to hereditaments

And whereas the said H. C. is seised in fee simple in possession of the manors, lands, and hereditaments

secondly hereinafter mentioned and conveyed, subject to the mortgages or incumbrances mentioned in the 3rd schedule hereto:

in 2nd schedule subject to incumbrances in 3rd schedule.

And whereas upon the treaty for the said intended marriage it was agreed that such settlement should be made as thereinafter contained:

Testatum. Conveyance of hereditaments in 1st and 2nd schedules.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the said intended marriage, the said H. C. AS SETTLOR and G. C. AS SETTLOR as to the hereditaments first hereinafter mentioned, and the said H. C. AS SETTLOR as to the hereditaments secondly hereinafter mentioned, Do and each of them Doth hereby convey unto the trustees:

First all those manors or reputed manors, advowsons, messuages, lands, and hereditaments in the county of a particular whereof is contained in the first schedule thereto, And all other (if any) the lands and hereditaments now subject to the subsisting limitations of the recited settlement and disentailing assurance, but not including any hereditaments liable to be purchased with money which has arisen from a sale or exchange under the power of sale and exchange contained in the aforesaid settlement, and now remaining uninvested in land, nor any interest in such money or the investments representing the same:

Secondly, All the manors, advowsons, farms, lands, and hereditaments in the county of a particular whereof is contained in the second schedule hereto, and all other (if any) the messuages, lands, and hereditaments in the county of to which the said H. C. is beneficially entitled for any estate of freehold of inheritance,

Habendum.

TO HOLD unto the trustees in fee simple, but as to the said premises first hereinbefore mentioned and conveyed,

Subject to rent-charges.

Subject as to such of them as are affected thereby to the said jointure rent-charges of £2000 and £1500 per annum respectively, and to the powers, remedies, and terms of years for securing the same respectively, And as to all the premises first hereinbefore mentioned and conveyed,

And subject to powers

Subject also and without prejudice to the power of sale

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exerciseable by father under his marriage settlement.

and exchange and the powers incidental thereto, powers of leasing and the other powers exerciseable during the life of the said H. C. contained in the recited settlement, and so that such powers may continue exerciseable during the life of the said H. C., And as to such of the said premises first hereinbefore mentioned and conveyed as are situated in the said parish of A., and as to all the said premises secondly hereinbefore mentioned and conveyed Subject to the mortgages and incumbrances respectively affecting the same or parts thereof mentioned in the said third schedule hereto, And so subject and until the said intended marriage shall be solemnized, To THE USES and subject to the powers and provisions now affecting the same premises respectively, But from and after the solemnization of the said intended marriage To THE USES, upon the trusts, and subject to the powers and provisions hereinafter declared concerning the same (that is to say):

And subject to incumbrances in 3rd schedule.

And until intended marriage subject to subsisting uses.

After solemnisation thereof,

To use that existing rent-charges be payable out of hereditaments in 1st schedule.

As to the premises first hereinbefore mentioned and conveyed To THE USE that the said jointure rent-charges of £2000 and £1500 charged thereon as aforesaid may be charged thereon and payable thereout exclusively, in exoneration of all moneys and the income of all moneys which have already arisen from any sale or exchange made under the power of sale and exchange contained in the said settlement, and have not at the date of these presents been re-invested in the purchase of land and so that such moneys and the income thereof shall so far as may be become discharged from the said rent-charges and may be indemnified against the same by the premises first hereinbefore mentioned (*a*), And Subject as aforesaid,

Limitation of residence for son.

As TO the messuage called B. House in the parish of B., and the out-houses, stables, gardens, and pleasure grounds adjoining thereto and usually occupied therewith, containing by estimation &c. or thereabouts, being part

(*a*) The object of this (the uninvested money being small in amount) is to enable the trustees safely to pay it to H. C. and G. C.

of the premises first hereinbefore mentioned, discharged so far as may be from all claim in respect of the aforesaid rent-charges of £2000 and £1500, and indemnified against the same by the other hereditaments charged therewith, TO THE USE of the said G. C. during the joint lives of himself and the said H. C., To the intent that he may have the same as a residence for himself and his family:

And of rent-charges to son.

And as to all the residue of the premises first and secondly hereinbefore mentioned and conveyed other than the messuage and hereditaments hereinbefore limited to the said G. C. during the joint lives of himself and the said H. C., TO THE USE that the said G. C. may receive the yearly rent-charges following, that is to say, The yearly rent-charge of £1000 during the joint lives of himself and the said H. C., and also if the said S. M. C. should die during the joint lives aforesaid, then after the decease of the said S. M. C. and during the residue of such joint lives, the further additional yearly rent-charge of £500, the said rent-charges respectively to be charged upon and issuing out of the premises first and secondly thereinbefore mentioned other than as aforesaid, and the said rent-charge of £1000 to commence from the date of these presents, and the said additional rent-charge of £500 to commence from the death of the said S. M. C. if the same should happen during the joint lives aforesaid, and both the said rent-charges to be payable quarterly on the usual quarterly days in every year, but to be deemed to accrue due from day to day, and the first payment in respect of the said rent-charges being either a full quarter's payment or a proportional payment as the case may be, to be made on the first quarter day happening after the commencement thereof respectively:

Of rent-charges to wife.

AND TO THIS FURTHER USE, that in case the said G. C. should die in the lifetime of the said H. C., then the said M. T., if she should survive the said G. C., shall thenceforth during the joint lives of herself and the said H. C., receive the like yearly rent-charge of £1000 or the like yearly rent-charges of £1000 and £500 as the case

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may be, issuing out of and charged upon the same premises as would, under the limitation last hereinbefore contained, have been payable to the said G. C. if living, the said rent-charge or rent-charges to be payable on the like quarterly days (but to accrue from day to day), and otherwise in like manner as and to be by way of continuation of the said rent-charge or rent-charges hereinbefore limited to the said G. C.:

Limitation to father for life, in restoration (as to part) of his former estate.

AND AS to all the premises first and secondly hereinbefore mentioned, subject to the uses and estates hereinbefore limited TO THE USE of the said H. C. during his life without impeachment of waste, and so that as regards such of the premises as were before the execution of these presents subject to the limitations of the recited settlement, the aforesaid estate for life may be by way of restoration and confirmation of the life estate of the said H. C. under the said settlement, with the power of consenting to sales and exchanges, and the powers ancillary thereto, and all other powers limited to the said H. C. by the said settlement, And after the death of the said H. C. TO THE USE of the said G. C. during his life without impeachment of waste, with remainder TO THE USE that the said M. T., in case she should survive the said H. C. and G. C., may thenceforth receive during her life the yearly rent-charge of £ to be issuing out of the premises first and secondly hereinbefore mentioned, the last-mentioned rent-charge to be payable by quarterly payments on the usual quarterly days of the year, but to be deemed to accrue due from day to day, and the first of such quarterly payments being a full quarterly payment, or a proportionate part thereof, as the case may be, to be made on the first of the said quarterly days which shall happen after the death of the survivor of the said H. C. and G. C., if the said M. T. shall be then living: And subject and charged as hereinbefore mentioned,

With remainder for life.

Limitation of jointure.

With remainder to issue male of the husband as he shall appoint.

TO THE USE of or in trust for all or any or such one or more exclusively of the others or other of the sons, or of the issue male of sons of the said G. C., for such estate or

estates in tail male, or any lesser estate or estates, and charged with such annual sum or sums in favour of any one or more of such sons or issue male, and subject to such conditions, restrictions, limitations, and remainders over for the benefit of all or any one or more of such sons or issue male in tail male, or for any lesser estate or estates as the said G. C. shall at any time, or from time to time, by deed revocable or irrevocable, or by will or codicil appoint, And in default of and until and subject to any such appointment, To the use of the first and other sons of the said G. C. and M. T. successively, according to seniority in tail male, with remainder To the use of the said G. C. in fee simple.

In default, to use of sons of marriage in tail male.

Remainder to husband in fee.

PROVIDED ALWAYS, And it is hereby declared that the said H. C. may from time to time, or at any time, by deed revocable or irrevocable, or by will or codicil specially referring to this power, charge all or any of the premises hereinbefore conveyed, with any sum or sums not exceeding in the whole the sum of £ and interest thereon not exceeding the rate of £4 per cent. per annum for his own use, and may by the same or any other deed, or by will or codicil, appoint the premises charged for any term of years with or without impeachment of waste, Upon usual trusts by mortgage or otherwise to raise the principal money and interest charged, and the costs and expenses (if any) of raising the same, and every such charge and appointment shall take priority over all the uses and estates hereinbefore limited.

Power for father to charge for his own use.

[*Power for husband to charge portions, adapting Form No.* 11;

And to jointure and charge portions on future marriage: Forms Nos. 10 *&* 11;

Appointment of trustees for the purposes of the S. L. A. and s. 42 *of the C. A.* 1881, *Form No.* 18; *and see General Forms, pp.* 98–103, *for other provisions applicable to those Acts, as may be desired.*]

AND IT IS HEREBY DECLARED that in case any purchase or exchange shall be made of any hereditaments liable to

Lands acquired under father's settlement to

be conveyed to uses under this settlement.

be conveyed and settled to the subsisting uses of the recited settlement, a conveyance of the hereditaments purchased or taken in exchange shall be made To the uses upon the trusts, and subject to the powers and provisions which under the same settlement and the said disentailing assurance hereinbefore mentioned, and these presents shall for the time being be subsisting concerning the premises hereinbefore conveyed, And further that in case at the death of the said H. C. there shall be in the hands, or standing in the names or name of the trustees or trustee of the power of sale and exchange contained in the recited settlement, any moneys or investments liable to be laid out in the purchase of land to be conveyed as lastly hereinbefore directed, such moneys or investments shall be paid or transferred to the trustees or trustee of these presents, whose receipt shall be a complete discharge for the same, and shall be held by such trustees or trustee, upon the same trusts and subject to the same powers and provisions as capital money, or investments representing capital money, arising under the Settled Land Act from the premises hereby settled.

Money to be laid out in land under father's settlement to be paid to trustees of this settlement.

Debts in 3rd schedule to be charged on the land in exoneration of father.

AND IT IS HEREBY DECLARED that the several principal sums and interest mentioned in the 3rd schedule hereto shall be charged on and payable out of the hereditaments now charged therewith and hereby settled in exoneration of the said H. C., his heirs, executors, and administrators, and his and their estate and effects.

[*Power to appoint new trustees, Form No.* 21.]

In witness, &c.

THE FIRST SCHEDULE ABOVE REFERRED TO.

[*To contain particulars of the manors, &c., first above mentioned.*]

THE SECOND SCHEDULE ABOVE REFERRED TO.

[*To contain particulars of the manors &c., second above mentioned.*]

THE THIRD SCHEDULE ABOVE REFERRED TO.

Incumbrances affecting the hereditaments in the second Schedule.

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Date of incumbrances.	Parties thereto.	Principal money due.

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RE-SETTLEMENT BY FATHER AND ELDEST SON.

RE-SETTLEMENT by FATHER and ELDEST SON of settled estates and settlement of other estates, subject as to the settled estates to portions raisable under the father's settlement. LIMITATION of ADVOWSONS as the father and son shall appoint, and as to THE OTHER HEREDITAMENTS To a trustee FOR A TERM to RAISE MONEY to pay off incumbrances. Limitations of RENT-CHARGES for the SON in different events; of a TERM during life of father for paying INTEREST on incumbrances, PREMIUMS on LIFE policies and FIRE INSURANCE; AND AS TO ALL the hereditaments To USES in STRICT SETTLEMENT, and restoring father's powers under his former settlement, a jointress concurring and receiving a larger jointure. NAME AND ARMS clause without forfeiture in default. POWER for son to APPOINT certain ADVOWSONS Upon trust to present his sons except eldest son; and to CHARGE a sum for his own use. POWER for tenants for life except father to JOINTURE and CHARGE PORTIONS with special provisions as to jointure charged by eldest son. APPOINTMENT of TRUSTEES for purposes of S. L. A. and s. 42 of C. A., 1881, and other provisions relating thereto. POWER to trustees to RAISE MONEY for PURCHASE OF LAND and for IMPROVEMENTS without regard to s. 26 of S. L. A. ASSIGNMENT of POLICIES on father's life on trust to pay off incumbrances, and of CHATTELS as HEIRLOOMS.

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Provision for payment of money arising from sales &c. under father's settlement during his life to trustees of this settlement to be applied as capital money under S. L. A.

Parties.

THIS INDENTURE made &c. between F. B. of &c. of the first part, C. B. eldest son of the said F. B. of the second part, Jane B. wife of the said F. B. of the third part, D. G. of &c. and C. W. of &c. of the fourth part, the said D. G. of the fifth part, and the said C. W. of the sixth part.

Recitals. Settlement in 1859 of hereditaments in 1st schedule and advowson.

Whereas at the date of the indenture of disentail hereinafter recited, and under an indenture of settlement dated &c. 1859, and made between &c. the P. and N. estates in the county of &c. (with an advowson and certain lands in the county of &c.) described in the first schedule hereto and hereinafter appointed and first conveyed, stood limited (subject to mortgages for securing a total sum of £ affecting the fee simple of parts of the said estates as mentioned in the first part of the third schedule hereto) To the use of the said F. B. during his life without impeachment of waste Subject to and charged with an annual sum of £ payable to the said Jane B. during the joint lives of herself and the said F. B. for her separate use without power of anticipation as pin-money, and with power for the said F. B. to charge a jointure rent-charge not exceeding £ per annum in favour of any wife who might survive him and also to charge portions for his younger children not exceeding £ for one such child, £ for two such children, and £ for three or more such children, which pin-money and which jointure to the extent of £ , and which portions to an extent not exceeding in any case £ , were charged by an indenture of settlement dated &c. executed on the marriage of the said F. B. with the said Jane B. and in respect of which portions the sum of £ only is now presumptively raisable, there having been only two younger children of the said marriage besides the said C. B. the eldest son, the life estate

Subject to mortgages in 2nd part of 3rd schedule.

of the said F. B., being also subject to the mortgages affecting the same mentioned in the second part of the said third schedule, And, subject as aforesaid, the said estates advowson lands and hereditaments after the death of the said F. B. and at the date aforesaid, stood limited To the use of the said C. B. in tail male with remainders over:

Disentailing deed.

And whereas by the said indenture or deed of disentail hereinbefore referred to dated &c. (duly enrolled as a disentailing assurance) and made between the said F. B. of the first part, the said C. B. of the second part, and M. N. of the third part, the said C. B., with the consent of the said F. B., conveyed All the manors and hereditaments hereinafter mentioned and intended to be hereby appointed and first conveyed, and all other the manors, lands, and hereditaments, then subject to the subsisting uses of the said indenture of settlement of &c. 1859, unto the said M. N. and his heirs, subject (exclusively and in exoneration of the moneys, stocks, funds, and securities thereinafter mentioned and assigned, being certain cash and investments of small amount which were liable to be laid out in the purchase of lands and hereditaments to be settled to the subsisting uses of the said settlement) to the said pin-money and jointure rentcharge charged in favour of the said Jane B., and to the sum raisable for portions for her younger children by the said F. B., and to the terms of years and other securities for raising the said jointure and portions, and also subject to the other incumbrances affecting the said hereditaments, but freed from the life estate of the said F. B. under the said settlement and all powers of charging and other powers annexed to or exercisable during the continuance of such life estate, And also freed from the said estate in tail male of the said C. B. and all other estates in tail male or in tail of the said C. B. or the said F. B., and all remainders, reversions, estates, rights, interests, and powers, to take effect after the determination or in defeazance of such estates in tail male or in tail, To such uses upon such trusts and in such manner generally as the said

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F. B. and C. B. should from time to time or at any time by deed revocable or irrevocable jointly appoint, and in default of and until and subject to any such appointment, To the uses upon the trusts and subject to the powers and provisions which immediately before the execution of the indenture now in recital and under the said settlement were subsisting with reference to the said premises thereby conveyed:

Title to hereditaments in 2nd schedule subject to incumbrance in 3rd schedule.

And whereas the said F. B. is seised in fee simple of the hereditaments described in the second schedule hereto, and secondly hereinafter conveyed subject as to part thereof to the incumbrance numbered in the second part of the third schedule hereto and therein mentioned to affect the same:

Title to policies in 4th schedule subject to mortgages in 2nd part of 3rd schedule.

And whereas the said F. B. is entitled to the policies of assurance effected on his life mentioned in the fourth schedule hereto, subject to the assignments thereof by way of mortgage made for securing the several sums which are mentioned in the second part of the third schedule hereto to be secured on the said policies and on the life estate of the said F. B. in the hereditaments hereinafter appointed and first conveyed:

Agreement for settlement.

And whereas the said F. B. and C. B. are desirous of making such settlement as hereinafter contained, and in consideration thereof and of the increased jointure hereinafter limited to the said Jane B., she has agreed to join in these presents as hereinafter appearing for the purpose of releasing the said jointure rent-charge of £ limited to her by the said settlement:

Provision as to costs.

And whereas upon the execution of the recited deed of disentail it was agreed that the sum of cash and the investments hereinbefore referred to as assigned by that deed, and then liable to be invested in the purchase of land, to be settled to the subsisting uses of the said settlement, should be received by the said C. B. and the same cash and investments were accordingly disentailed by the said deed and limited to him absolutely, and it was agreed that thereout so far as the same would extend the costs and expenses of and incidental to the preparation and

completion of the said deed and of these presents should be paid by him, And it is intended that the said cash and investments shall be received by or transferred to the said C. B. and applied by him accordingly, and that the surplus (if any) shall be retained by him for his own use, And that if the said cash and investments should not be sufficient to discharge all the said costs and expenses the balance should be discharged by the said F. B., and he agrees to discharge the same accordingly:

First testatum.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreements in this behalf, and in consideration of the premises, and for divers other good causes and considerations, the said F. B. and C. B., in exercise of the power in this behalf contained in the recited deed of disentail and of every other power enabling them, Do by this present deed AS SETTLORS jointly and irrevocably appoint That all the manors, advowsons, rectories, messuages, lands, tithes, rent-charges, in lieu of tithes and hereditaments first hereinafter mentioned and expressed to be first conveyed, and all other (if any) the hereditaments comprised in the said deed of disentail, shall henceforth remain and be To the uses upon the trusts and subject to the powers and provisions hereinafter declared concerning the same:

Appointment of hereditaments in 1st schedule.

Second testatum.

AND THIS INDENTURE ALSO WITNESSETH that in further pursuance of the said agreements and for the considerations aforesaid, the said F. B. and C. B. do AS SETTLORS, and each of them doth AS A SETTLOR and according to his estate and interest as hereinbefore appearing, hereby convey, and the said Jane B., with the consent of the said F. B., and for the purpose of releasing from her said jointure rent-charge all such of the hereditaments hereinafter mentioned as are charged therewith, Doth hereby release and dispose of unto the said D. G. and C. W.,

Grant and release.

Parcels.

First of hereditaments in 1st schedule.

First, All those the manors or lordships, or reputed manors or lordships, of &c., And also All those the capital messuages or mansion-houses called &c., And also All those the advowsons, donations, and rights of patronage of and to the several churches of &c., And also All that

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the impropriate rectory of &c., and all rent-charges now payable or which shall from time to time become payable in lieu of the rectorial tithes or tenths issuing, growing, or arising out of and from all the messuages, lands, and hereditaments in the parishes of &c., And also all the messuages, farms, lands, and hereditaments situated in the parishes of &c., or one of them in the county of &c., a particular whereof is contained in the first schedule hereto:

Secondly of hereditaments in 2nd schedule.

Secondly, All those messuages, lands, and hereditaments situated in the parishes of &c., in the county of &c., a particular whereof is contained in the second schedule hereto, and to which the said F. B. is entitled in fee simple as aforesaid:

Habendum subject to incumbrances in 3rd schedule. And also subject to pin-money and portions.

But freed from jointure, and from powers limited to father.

TO HOLD unto the said D. G. and C. W. in fee simple Subject to the several incumbrances which hereinbefore and in the third schedule hereto are mentioned to affect the premises respectively, And also Subject (in exoneration of all moneys, stocks, funds, and securities assigned by the said deed of disentail) to the same incumbrances and to the pin-money and sum raisable for portions under the said settlement, But freed from the jointure rent-charge limited as aforesaid to the said Jane B., and also freed from all powers limited to the said F. B. by or exercisable or capable of taking effect during the continuance of his life estate under the said settlement (*a*), and so subject and so freed To the uses upon the trusts and subject to the powers and provisions hereinafter declared concerning the same:

Declaration of uses.

AND IT IS HEREBY DECLARED that the premises hereinbefore appointed and conveyed shall remain and be To the uses upon the trusts and subject to the powers and provisions following, that is to say,

As to certain advowsons

As to the said advowsons of the rectories of &c., To such uses for such purposes and in such manner generally as

(*a*) These powers are here discharged for the purpose of letting in the limitations after contained prior to the life estate limited to the father, but they are afterwards restored subject to those limitations.

the said F. B. and C. B. shall by deed revocable or irrevocable from time to time or at any time jointly appoint:

To such uses as father and son appoint.

And as to all other the said premises hereinbefore appointed and conveyed, except the said advowsons lastly hereinbefore mentioned, and also except all other advowsons hereinbefore granted, To the use of the said D. G. for the term of 1400 years, to be computed from the date of these presents without impeachment of waste, Upon the trusts hereinafter declared concerning the same, And subject to the said term and the trusts thereof, To the use that the said C. B. may, during the joint lives of himself and the said F. B., receive the following yearly rent-charges, that is to say: First, a yearly rent-charge of £ , to commence from the date of these presents, and to continue payable during the joint lives of the said F. B. and C. B.; Secondly, a further yearly rent-charge of £ , to commence from the 1st day of February, 188 , if the said C. B. shall be then married, or from the day of his marriage after the said 1st day of February, 188 , in the lifetime of the said F. B., the said rent-charge of £ [*the first rent-charge*] to be issuing as to £ part thereof out of such of the said premises (other than advowsons) hereinbefore appointed and conveyed as are situated in the Electoral Division of &c., and as to £ further part thereof out of such of the said premises (other than advowsons) as are situated in the Electoral Division of &c., and as to £ residue thereof out of such of the said premises (other than advowsons) as are situated in the county of &c. (*a*), And the said rent-charge of £ [*the second rent-charge*] to be issuing out of all the said premises (other than advowsons) hereinbefore appointed and conveyed, the said two rent-charges to be deemed to accrue due from day to day, but to be payable by equal quarterly payments on the 1st day of &c., the 1st day of &c., the 1st day of &c., and the 1st day of &c., in every year, without any deduc-

And as to other hereditaments (except advowsons) To D. G. for 1400 years.

Subject thereto to the use that son may receive rent-charges.

The first rent-charge divided to secure votes.

(*a*) This mode of charging the rent-charge is for the purpose of conferring votes.

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tion, the first of such quarterly payments in respect of the said rent-charge of £ [*the first rent-charge*] to be made on the 1st day of &c. if the said F. B. shall then be living, and the first quarterly payment in respect of the said rent-charge of £ [*the second rent-charge*] to be made on the first quarterly day for payment of the said rent-charge of £ [*the first rent-charge*] which shall happen in the month of February, 188 , or next after the marriage of the said C. B. in the lifetime of the said F. B., which shall last happen, and to be a full quarterly payment, notwithstanding a full quarter may not have then elapsed from the time of the marriage:

With remainder to C. W. for 120 years if father so long lives.

And subject to the said rent-charges hereinbefore limited, To the use of the said C. W., for the term of 120 years from the date of these presents if the said F. B. shall so long live, without impeachment of waste, Upon the trusts, and subject to the powers and provisions hereinafter declared concerning the same:

And as to all including advowsons

And as to all the premises hereinbefore appointed and conveyed, including advowsons, but subject, as to the said advowsons of &c., to the joint power of appointment hereinbefore contained in relation thereto, and subject, as to such of the premises as are charged therewith or comprised therein, to the said rent-charges, To the use of

To father for life in restoration of powers annexed to old life estate.

the said F. B. during his life, without impeachment of waste by way of restoration of his life estate under the said settlement, Together with all powers of jointuring, charging portions and other sums, and all powers of leasing partition sale and exchange, and other powers annexed to or exercisable or capable of taking effect during the continuance of such life estate under the said settlement, and which immediately before the execution of the recited deed of disentail were capable of being exercised, And in the case of the power of jointuring with this variation, that a yearly jointure rent-charge, not exceeding £ , may be charged and appointed, instead of a yearly jointure rent-charge of £ only, And so that all the aforesaid powers, except powers of jointuring and charging portions and other sums, may take priority over all the rent-charges hereinbefore

limited, and over the uses, estates, powers, and provisions hereinafter limited, And may be exercisable in like manner in all respects and with the same over-reaching effect as if the said deed of disentail and these presents had not been executed, but without prejudice to any mortgage or other disposition made under the trusts hereinafter contained of the said term of 1400 years hereinbefore limited, And so also that the said powers of jointuring and charging portions may take priority over the said rent-charges and term of 120 years hereinbefore limited, and the trusts thereof, but shall be postponed to the said term of 1400 years hereinbefore limited, and the trusts thereof, And may be also over-reached by the exercise by the said F. B. of any power conferred on a tenant for life by the Settled Land Act, And after the death of the said F. B. as to all the premises except advowsons,

Jointure to mother.

To the use that if the said Jane B. shall survive the said F. B. she may thenceforth receive during the residue of her life the yearly rent-charge of £ to be in full for her jointure, and so that no further jointure shall be limited to her under any power contained in the said settlement, and hereby restored to the said F. B., and to be issuing out of the premises hereinbefore appointed and conveyed (except advowsons), and to be deemed to accrue due from day to day, but to be payable by equal quarterly payments, the first of such quarterly payments to be made at the end of three calendar months next after the death of the said F. B. if the said Jane B. should then be living:

Remainder to eldest son for life,

His sons in tail male,

Second son of F. B. for life,

And after the death of the said F. B., and subject to the aforesaid rent-charge, It is hereby declared that all the premises hereby appointed and conveyed, including advowsons, shall remain and be To the use of the said C. B. during his life, without impeachment of waste, And after his death To the use of his first and other sons successively, according to seniority in tail male, With remainder To the use of W. B., the second son of the said F. B., during his life without impeachment of waste,

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His sons in tail male,

Third &c., sons of F. B. in tail male,

Sons of eldest son in tail general,

Sons of second son in tail general,

Third &c., sons of F. B. in tail general,

Daughters of the eldest son in tail general,

Daughters of second son in tail general,

Only daughter of F. B. for life,

Her first and other sons in tail,

Her first and other daughters in tail general,

Younger daughters of F. B. in tail general,

Eldest son in fee.

With remainder To the use of his first and other sons successively according to seniority in tail male, With remainder To the use of the third, fourth, and other younger sons of the said F. B. [*unborn sons*] successively according to seniority in tail male, With remainder To the use of the first and other sons of the said C. B. successively according to seniority in tail general, With remainder To the use of the first and other sons of the said W. B. successively according to seniority in tail general, With remainder To the use of the third, fourth, and other younger sons of the said F. B. successively according to seniority in tail general, With remainder To the use of the first and other daughters of the said C. B. successively according to seniority in tail general, With remainder To the use of the first and other daughters of the said W. B. successively according to seniority in tail general, With remainder To the use of Mary B., only daughter of the said F. B., during her life without impeachment of waste, and without power of anticipation during any coverture, With remainder To the use of her first and other sons successively according to seniority in tail general, With remainder To the use of her first and other daughters successively according to seniority in tail general, With remainder To the use of the second and other younger daughters of the said F. B. [*unborn daughters*] successively according to seniority in tail general, With remainder To the use of the said C. B. in fee simple.

Name and arms clause.

AND IT IS HEREBY DIRECTED AND DECLARED that every male person and the husband of every female person who shall be or become entitled to the possession or to the receipt of the rents and profits of the premises hereinbefore appointed and conveyed, and who shall not then use or bear the name and arms of B. shall take and use the name and arms of B., and every male person and husband of a female person becoming entitled as aforesaid shall continue to use the said name and arms (*a*).

(*a*) For a more effectual form than this, with a forfeiture clause in default, if required, see General Form, No. 8.

Trusts of 1400 years term to pay off charges on life estate.

AND IT IS HEREBY DECLARED that the said D. G. shall stand possessed of the premises limited to him for the said term of 1400 years Upon trust that he, his executors, administrators, or assigns, shall from time to time, or at any time at the request in writing of the said F. B. during his life, or after his death, of the said C. B., and either by assignment or demise by way of mortgage of all or any part of the premises comprised in the said term for all or any part of that term, or by any other means, raise any money not exceeding the sum of £ which when raised shall be applied in paying off all or any of the mortgage debts or sums mentioned in the second part of the third schedule hereto, and amounting together to the sum of £ and also in paying the costs and expenses of or incidental to the execution of the trusts of the said term of 1400 years, and also all costs and expenses of or incidental to any transfers, reconveyances, releases, or other dealings with the same mortgage debts which may become necessary or be proper, all such costs and expenses to be first admitted and approved by the trustees or trustee hereof for the time being which admission or approval shall in all respects be conclusive as against all persons claiming under these presents, And also if necessary Upon further trust at the like request to assign or demise the same premises or any part thereof by way of mortgage to or in trust for the person or respective persons for the time being entitled to the aforesaid mortgage debts amounting to £ secured on the life interest of the said F. B., to the intent that by such assignments or demises by way of mortgage a further security may be made for all or any of the same mortgage debts in consideration of the rate of interest thereon, or on such of them as shall be so further secured being reduced, or that the same may be otherwise secured on more favourable terms, or that the persons entitled thereto may be induced not to call in the same or with a view to any other purpose:

Costs to be approved by trustees,

or to give mortgagees further security.

PROVIDED ALWAYS that if after any security shall have been given under the trusts aforesaid the said F. B.

Subsequent incumbrancers not to marshal

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prior securities.

shall further mortgage or incumber his life interest in the premises hereby appointed and conveyed, the persons claiming under such further mortgages or incumbrances shall not be entitled to marshal the securities of the prior incumbrancers so as to throw the incumbrances of such prior incumbrancers on the said term of 1400 years in exoneration of the life estate of the said F. B. in the aforesaid premises, but such life estate and the policies of assurance mentioned in the fourth schedule hereto shall remain and be primarily charged with the incumbrances now affecting the same respectively in exoneration of the said term of 1400 years and the premises therein comprised:

Leasehold property of the father exonerated from incumbrances.

PROVIDED ALWAYS that the leasehold properties of the said F. B. forming or included in the securities for the mortgage debts Nos. and mentioned in the second part of the third schedule hereto shall by means of the trusts of the said term of 1400 years be wholly exonerated from such debts and as soon as may be shall be released and reassigned to the said F. B. discharged from the said securities.

Trusts of 120 years' term to keep down interest and policy premiums, and fire insurances.

AND IT IS HEREBY DECLARED that the said C. W. shall stand possessed of the said term of 120 years, determinable with the life of the said F. B. hereinbefore limited to him, Upon trust that he, his executors, administrators, or assigns, shall, during the life of the said F. B., upon the request in writing of the said C. B., his executors, or administrators, or of any person entitled or interested in remainder to or in the premises comprised in the said term, or of the guardian or guardians of such person, raise out of the rents and profits of the said premises all money required for keeping down the interest now due or hereafter to accrue due on the several incumbrances mentioned in the third schedule hereto, and for the time being unpaid, and all other incumbrances affecting the premises, and also any interest or annual sum becoming chargeable on the premises under these presents, And also all premiums and other sums of money necessary for keeping on foot the policies of assurance mentioned in

the fourth schedule hereto and hereinafter assigned, or for keeping on foot any policy effected in substitution for any of the aforesaid policies, And also all costs and expenses which may be incurred in effecting any new policies in lieu of any policies becoming void, And also all money required for paying the premiums for an insurance against loss or damage by fire of or to the mansion-house of &c., with the offices and out-buildings thereto, to the amount of £ , And against loss or damage by fire of or to the furniture, chattels and effects hereinafter assigned and settled as heirlooms which are in or about the said mansion-house of &c. to the amount of £ , And also all costs incurred incidental to the execution of this present trust, and all other money, whether herein referred to or not, which the said F. B. during his life may be bound to pay as between himself and persons entitled in remainder after him:

Subject as aforesaid rents to be received by reversioner.

AND IT IS HEREBY DECLARED that subject to the trusts hereinbefore declared of the several terms hereinbefore limited the trustees or trustee thereof shall permit the rents and profits of the premises comprised therein, or so much thereof as shall not be wanted for the purposes aforesaid, to be received by the person or persons for the time being entitled to the same premises in reversion immediately expectant upon the same terms.

Eldest son may appoint advowsons on trust to present.

PROVIDED ALWAYS that without prejudice to any previous exercise of the joint power of appointment hereinbefore conferred on the said F. B. and C. B. in regard to the advowsons of the rectories of &c. but so as to overreach the same power so far as it shall not have been exercised, the said C. B. may by deed revocable or irrevocable or by will or codicil appoint the same advowsons or either of them and all or any of the advowsons of the rectories of &c. hereinbefore mentioned, To the use of any person his executors, administrators, and assigns, for the term of twenty-one years from the decease of the survivor of the said F. B. and C. B. upon trust at any time during the said term to present to the said rectories or any of them any one or more of the sons of the said C. B.

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Power for eldest son to charge for his own use.

other than an eldest son for the time being, or if there shall be no son desirous or capable of being presented then the husband or husbands of any daughter or daughters of the said C. B.

PROVIDED ALWAYS that the said C. B. may by deed revocable or irrevocable or by will or codicil (subject to the life estate hereinbefore limited to the said F. B. and to the said term of 1400 years hereinbefore limited, and to the trusts thereof, and also subject to the said jointure rent-charge hereinbefore limited to the said Jane B. if she should survive the said F. B., but in priority to all other limitations, powers, and provisions herein contained or to be limited under any powers of jointuring and charging portions herein contained) charge the premises hereinbefore appointed and conveyed, except advowsons, with any money not exceeding in the whole the sum of £ , to be raised at any time after the decease of the said F. B. and to be paid to the said C. B., his executors or administrators, for his and their own use, and from time to time, or at any time, but subject as aforesaid to appoint all or any part of the premises (except as aforesaid), either in fee or for any terms or term of years, by way of mortgage for securing or raising the said sum of £ or any part thereof, with interest thereon from the death of the said F. B.

Power for tenants for life except the father to jointure, &c.

PROVIDED ALWAYS that the said C. B. and every other person except the said F. B. hereby made tenant for life of the said premises hereby appointed and conveyed, may at any time or times either before or after becoming under these presents entitled to the possession or to the receipt of the rents and profits of the said premises (but in the case of the said C. B. subject to the limitations preceding the estate for life hereinbefore limited to the said F. B. and to the jointure rent-charge hereinbefore limited to the said Jane B., and any jointure or portions charged under any power hereby restored to the said F. B., and also subject to the special provisions applicable to an appointment by the said C. B. hereinafter contained, and in the case of every such other person subject and

without prejudice to the limitations preceding the estate of the person for the time being exercising this present power, and to the powers annexed to such preceding limitations and to the uses or estates limited in exercise of such powers), by deed revocable or irrevocable, or by will or codicil

[*Continue and adapt power for tenants for life to jointure wives, and limit rent-charges to husbands, Form No.* 12.]

Restrictions as to jointure charged by eldest son.

PROVIDED ALWAYS that the annual sum payable in respect of any rent-charge appointed under the power aforesaid by the said C. B. to any wife of his, shall not during the life of the said F. B. exceed the annual sum of £ , and if the said Jane B., or any other wife of the said F. B. shall survive the said F. B., shall not during the residue of her life exceed the annual sum of £ :

Restrictions as to rent-charges appointed by person other than eldest son.

PROVIDED ALSO that any rent-charge appointed under the power aforesaid by a person other than the said C. B. shall not become a lien upon the said premises, nor be payable unless and until either the person appointing the same shall be or become entitled to the possession or the receipt of the rents and profits of the said premises, or some issue of such person shall, or if in existence and of full age would, become so entitled:

PROVIDED ALSO that except as to yearly rent-charges payable to the said Jane B. and any wife of the said C. B., which rent-charges shall not be reduced or affected by this present proviso, the premises or any of them shall not, under an exercise by any person other than the said C. B., of the power lastly hereinbefore contained, be at any one time subject to the payment of yearly rent-charges which in the whole shall be in excess of the annual sum of £ , but any rent-charge or rent-charges, or any part of any rent-charge which but for this proviso would have occasioned or formed such excess, shall, from time to time during the continuance of such excess, not be raisable, and all yearly rent-charges appointed under the power aforesaid, shall respectively have priority in the same order as the estates of the persons appointing the same.

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Power to eldest son to charge portions.

PROVIDED ALWAYS that the said C. B. may at any time or times (but subject to the exercise of the power of jointuring hereinbefore limited to him, and to any jointure rent-charge created under that power, and to all limitations and charges to which it is hereinbefore provided that a jointure rent-charge so created shall be subject) charge all or any of the premises hereby appointed and conveyed with the payment of any money not exceeding, in the different events hereinafter specified, the different sums hereinafter mentioned for the portion or portions of his child or children. [*Power for tenant for life to charge portions, adapt Form No.* 13 (*a*).

Appointment of trustees for S. L. A., and s. 42 of C. A., 1881, and other clauses applicable to S. L. A.

Appointment of trustees for the purposes of the S. L. A. and s. 42 *of the C. A. of* 1881, *Powers to be exercised by one trustee, Form No.* 18; *and such other forms applicable to those Acts as may be desired, General Forms, pp.* .]

Power for trustees to raise money for purchase of land and for improvements.

AND IT IS HEREBY DECLARED that the trustees or trustee, with the consent in writing of the said F. B. during his life and after his death, of the said C. B. during his life and after the death of both, with the consent in writing of the person (if any) of full age for the time being entitled to the possession or to the receipt of the rents and profits of the premises hereby appointed and conveyed, or, if there be no such person, then at the discretion of the trustees or trustee, may from time to time borrow and take up at interest, on the security of all or any part of the hereditaments for the time being subject to the subsisting limitations of these presents, any money not exceeding the respective amounts hereinafter mentioned, for any of the purposes following, that is to say—

First, any money not exceeding in the whole the sum of £ to be applied in the purchase of manors, lands, mines, or hereditaments of any tenure situated in the counties of and , or one of them to be settled in manner directed by the 24th section of the Settled Land Act with respect to land, mines, and heredita-

(*a*) This power to charge portions can be extended to all subsequent tenants for life if desired according to what the estate will bear.

ments acquired by purchase under that Act, and so that on every such purchase the hereditaments purchased may be included in any mortgage made to secure the purchase-money thereof;

Secondly, any money not exceeding in the whole the sum of £ to be applied in the execution of any improvements authorized by the same Act;

AND IT IS HEREBY DECLARED that for the purpose of securing the repayment of any money so borrowed, the trustees or trustee may with such consent or at such discretion as aforesaid, convey all or any part of the lands and hereditaments for the time being subject to the limitations of these presents, in fee or for any term of years with or without impeachment of waste, and by way of mortgage with all usual clauses and provisions.

Money raised for improvements may be paid to tenant for life.

AND IT IS HEREBY DECLARED that any money raised and to be applied as secondly hereinbefore mentioned may be either received and applied by the trustees or trustee for the purposes for which the same is raised, or may be paid by them or him to the person for the time being entitled to the possession or receipt of the rents and profits of the said premises for the purpose of being so applied without the trustees or trustee being bound to see to, or being in any way responsible for, the due application thereof, but the principal of all such money shall be repaid to the trustees or trustee by fifty equal half-yearly instalments, the first half-yearly instalment to be paid at the end of half a year from the date when the money is raised, and all sums received by the trustees or trustee in respect of such instalments shall be held and applied by them or him as capital money arising under the Settled Land Act from the premises hereby appointed and conveyed, And it is hereby declared that upon the raising of money by mortgage for the purpose of being applied as secondly hereinbefore mentioned the lands and hereditaments for the time being subject to the limitations of these presents shall stand charged with the payment to the trustees or trustee of a yearly rent-charge sufficient in amount to discharge the half-

Money raised to be paid off by instalments.

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yearly instalments aforesaid, and that the appointment and conveyance hereinbefore contained shall operate To the use to create and to give effect to the said rent-charge as a yearly rent-charge payable half-yearly for twenty-five years as aforesaid, and to confer on the trustees or trustee all the statutory powers for recovery of the said rent-charge.

Trustees' discretion as to improvements.

AND IT IS HEREBY DECLARED that in respect of money to be raised and applied for any of the purposes secondly hereinbefore mentioned, the trustees or trustee may either permit the same to be applied in or towards payment for an improvement upon the terms and in the manner in which capital money arising under the Settled Land Act is thereby authorized to be so applied, or may exercise their or his discretion as to whether any money ought to be raised, or as to the nature of the works for which it is raised, and may impose such conditions as to the application of the money as they or he may think proper, And may employ and pay out of the money raised surveyors and other persons to superintend any works and may make the payment of money conditional on the approval of the person employed to superintend, and generally the trustees or trustee shall have complete discretion and control so far as they or he choose to exercise discretion or control as to the raising and application of all money for any of the purposes secondly before mentioned, and as to whether any money should be raised for those purposes or not, but nevertheless shall not be in any way answerable for any misapplication or non-application of money so raised:

PROVIDED ALWAYS that the power hereinbefore contained for enabling the raising of money to be applied as secondly hereinbefore mentioned may be exercised from time to time as and when any money previously raised has been discharged by means of the half-yearly instalments hereinbefore directed to be paid in respect thereof, so that no greater sum in the whole than the sum of £ raised for the purposes secondly hereinbefore mentioned be at any one time undischarged.

Third testatum. Assignment of policies.

AND THIS INDENTURE ALSO WITNESSETH that in further pursuance of the said agreements and for the considerations aforesaid, the said C. B. AS SETTLOR hereby assigns unto the said D. G. and C. W.,

All those the policies of assurance mentioned in the fourth schedule hereto, and all monies thereby assured, or which now are or may hereafter become payable thereunder, and all policies which may be effected in lieu of the aforesaid policies and all monies payable thereunder,

Habendum.

TO HOLD AND RECEIVE the same unto the said D. G. and C. W. absolutely, Subject to the mortgages and incumbrances which in the second part of the third schedule hereto are mentioned to affect the same policies,

Upon trust to pay debts, &c.

UPON TRUST that the trustees or trustee shall enforce payment of and receive the money assured by or to become payable under the said policies, as and when the same respectively become payable, and thereout in the first place reimburse themselves or himself, or pay all costs and expenses incurred in enforcing payment of and receiving the same, and then apply such money in or towards satisfaction of the aforesaid mortgage debts or incumbrances amounting to £ mentioned in the second part of the third schedule hereto, or so much thereof as may not have been discharged out of money hereinbefore authorized to be raised under the trusts of the said term of 1400 years, and also in or towards satisfaction of any money raised under the trusts of the said term of 1400 years and for the time being due, and so that such mortgages or incumbrances may be paid off in any order without reference to the priorities thereof, And the trustees or trustee shall stand possessed of the surplus (if any) of the money received, under the said policies, after answering the purposes aforesaid, Upon the same trusts and subject to the same powers and provisions as capital money arising under the Settled Land Act from the premises hereby appointed and conveyed.

Covenant by father to keep up policies,

AND in consideration of the premises the said F. B. hereby covenants with the said D. G. and C. W. in manner

following, that is to say, That the said F. B. will not do any act whereby any of the policies hereby assigned, or any policy or policies substituted therefor may become void or voidable, and in case any such policy shall become void will forthwith effect a new policy on his own life for the sum which would have become payable under the void policy if it had remained in force and the said F. B. had died, And in case any such policy shall become voidable will forthwith restore the same, And will during his life duly pay and keep down the interest on all the incumbrances which shall for the time being affect the premises hereby appointed and conveyed, or any of them, and also all the premiums and other sums of money necessary for keeping on foot the policies of assurance hereinbefore assigned or any renewed policy, and will on demand furnish to the said C. B. his executors or administrators, or to the trustees or trustee, proper and satisfactory evidence of the due payment of all such interest, premiums, and other sums of money, and in default of such evidence being furnished within seven days after demand, the said C. B. his heirs, executors, administrators, or assigns, or the trustees or trustee may require that the trusts of the said term of 120 years hereinbefore limited shall be forthwith carried into execution:

and pay interest on incumbrances during his life.

PROVIDED ALWAYS that the trustees or trustee shall not be bound to see or inquire whether the said policies or any of them are kept on foot, restored, or renewed, nor to enforce performance of the covenant hereinbefore contained, nor be in any way answerable or liable on account of any omission or neglect to keep on foot, restore, or renew the said policies or any of them or otherwise with reference thereto.

Trustees not to be liable if policies not kept up.

AND IT IS HEREBY DECLARED that from time to time upon payment off of the respective incumbrances mentioned in the second part of the third schedule hereto, the several terms and other estates created or conveyed for securing the same shall be assigned and surrendered or

On discharge of incumbrances estates hereby settled to be held to uses of these presents.

assured so that as regards the hereditaments hereby settled the same may remain and be To the uses of these presents and discharged from such incumbrances, and that the limitations hereinbefore contained may take effect in like manner as if the respective persons in whom such terms and other estates are now vested had been paid all monies due to them, and had joined in conveying by these presents the hereditaments hereby appointed and conveyed, And so that the hereditaments the property of the said F. B. which are not hereby settled may be released, assigned, and surrendered to the said F. B. discharged from any incumbrances thereon mentioned in the second part of the third schedule hereto.

And estates the property of father not hereby settled to remain his.

AND THIS INDENTURE ALSO WITNESSETH that in further pursuance of the said agreements and for the considerations aforesaid, The said F. B. hereby assigns Unto the said D. G. and C. W.,

Fourth testatum. Assignment by father of household furniture, &c., as heirlooms.

All the household furniture, books, pictures, prints, plate, plated articles and other chattels and effects now in the said Mansions of &c., of which an inventory in duplicate referring to these presents has been made and signed by the said F. B. and C. B. immediately before the execution of these presents,

TO HAVE AND TAKE the same Unto the said D. G. and C. W. absolutely, Upon the trusts and subject to the provisions following, that is to say [*Trusts of chattels as heirlooms, Form No.* 17].

AND IT IS HEREBY DECLARED (*a*) that in case any money shall arise from a sale or exchange or partition made during the life of the said F. B. under any power contained in the hereinbefore mentioned settlement, such money or the investments representing the same may,

Proviso for payment to trustees of money arising from sales, &c., under former settlement.

(*a*) This clause will not be very generally required now. Sales, &c., will be made, not by the trustees of the old settlement, but under the Settled Land Act, by the tenant for life, and for this purpose the old settlement and the re-settlement form together one settlement; see also S. L. A. s. 33.

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during the life of the said F. B., and shall after his death, be paid or transferred to the trustees or trustee of these presents, and be applied by them or him as capital money arising under the Settled Land Act from the premises hereby appointed and conveyed.

[*Power for F. B. during his life, and after his death for C. B. during his life, and after the death of both for the person (if any) of full age for the time being entitled to the possession or to the receipt of the rents and profits, to appoint new trustees, Form No.* 21].

In Witness, &c.

The FIRST SCHEDULE above referred to,

Containing a particular of estates first above described.

The SECOND SCHEDULE above referred to

Containing a particular of estates the fee simple whereof belongs to the father, secondly above described.

The THIRD SCHEDULE above referred to.

List of Incumbrances.

PART I.

Incumbrances on the inheritance of settled estates.

No. above referred to.	Date of deed.	Property mortgaged.	Sum secured.	To whom due.
1.				
2.				
Total charge on the inheritance of settled estates .. .. £				

PART II.

Incumbrances on life estate and other property of F. B. No. XVII.

No. above referred to.	Date of deed.	Property mortgaged.	Sum secured.	To whom due.
Total charge on life estate and other property of F. B. .. .. £				

The FOURTH SCHEDULE above referred to,

Containing a list of Policies of Assurance to be kept on foot.

Date of policy.	Name of the Company with whom the policy is effected.	No. of policy.	Amount assured exclusive of bonus.	Annual premium.

This deed must be acknowledged by the jointress.

No. XVIII.

RE-SETTLEMENT. By tenants for life in possession and in remainder, and eldest son of latter.

RE-SETTLEMENT by tenant for life in possession and by tenant for life in remainder, and the eldest son of the latter as to one estate, and by the father and eldest son as to another.

THIS INDENTURE made &c. Between J. A. K. of &c. of the first part, C. F. (*a*) of &c. of the second part, G. B. F. of the same place, eldest son of the said C. F., of

(*a*) C. F. a younger brother of J. A. K., and who had taken the name of F.

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No. XVIII.

Settlement of the H. estates on J. A. K. and his issue male, remainder to C. F. and his issue male.

the third part, and J. D. of &c. and J. J. R. of &c. of the fourth part.

Whereas by an indenture of settlement dated &c. 1850, and made between &c. the manors, lands, and hereditaments in the county of E., forming the freehold portion of the H. estate, and constituting the greater part of the freehold hereditaments, which along with the copyhold parts of that estate now subject to the limitations of the said settlement, are comprised in the first part of the first schedule hereto, were appointed and assured, subject to the incumbrances therein mentioned to affect the same, and which so far as still subsisting, and together with others which have subsequently attached on the hereditaments comprised in the said first schedule, or on any part thereof, are specified in the third schedule hereto, To the use of the said J. A. K. the elder, for his life without impeachment of waste, with remainder To the use of the said J. A. K. party hereto for his life without impeachment of waste, with remainder To the use of the first and other sons of the said J. A. K. party hereto successively according to seniority in tail male, with remainder To the use of the said C. F. for his life without impeachment of waste, with remainder To the use of the first and other sons of the said C. F. successively according to seniority in tail male, with remainders over, And the said indenture contained the usual power of sale and exchange and the usual trusts for the reinvestment of money arising thereby in the purchase of other lands to be conveyed to the uses thereinbefore limited, and also contained a covenant by the said J. A. K. the elder and J. A. K. party hereto to surrender the copyhold hereditaments therein mentioned parcel of the manor of &c. and forming the greater part of the copyhold hereditaments which, along with the freehold hereditaments hereinbefore mentioned, are comprised in the first part of the first schedule hereto, To the use of the said &c. their heirs and assigns, Upon trusts corresponding to the limitations of the freehold hereditaments thereinbefore settled, And by the same indenture

the money to arise from the sale of certain hereditaments in C. and elsewhere conveyed upon trust for sale as therein mentioned and since sold were directed to be held by the said &c. Upon the trusts thereinbefore declared concerning the money to arise under the power of sale and exchange thereinbefore contained:

Death of J. A. K. the elder.

And whereas the said J. A. K. the elder died on &c.:

Appointment of jointure and portions by J. A. K.

And whereas by an indenture dated &c. 1854 [*appointment of jointure and charge of portions by J. A. K. under powers in recited settlement.*]

Sales, exchanges, and purchases.

And whereas sales and exchanges have from time to time been made under the powers of the recited settlement and out of the proceeds of such sales and exchanges freehold and copyhold hereditaments have been purchased and conveyed or surrendered to the uses or upon the trusts of the recited settlement, and at the date of the indenture of disentail secondly hereinafter recited a sum of £10,600 £3 per cent. Reduced Annuities remained standing in the names of T. B. and J. D. on the trusts affecting money arising under the powers of sale and exchange contained in that settlement:

Copyholds vested in heir of last trustee.

And whereas the copyhold hereditaments by the recited settlement covenanted to be surrendered, or such of the same as have not been sold or exchanged, and the copyhold hereditaments purchased as aforesaid are now legally vested in the said T. B., as customary heir of M. B., the surviving trustee of the recited settlement as tenant on the rolls:

Settled property, Sched. I. pt. 1.

And whereas the first part of the first schedule hereto contains a particular of all the freehold and copyhold hereditaments which are now subject at law or in equity to the subsisting limitations of the recited settlement:

Property of J. A. K. in Sched. I. pt. 2.

And whereas the said J. A. K. party hereto and hereinafter called the said J. A. K. without addition is entitled to the fee simple of the freehold and the customary fee of the copyhold hereditaments, a particular whereof is contained in the second part of the first schedule hereto:

Incumbrances in Sched. III.

And whereas the third schedule hereto contains a statement of the incumbrances now affecting the estates

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comprised in the first part of the first schedule hereto, including a mortgage for securing £8000 and interest now vested in R. and S. in trust for the said J. A. K., and also a mortgage debt of £2000 secured to the said C. F.:

And whereas there has never been any issue of the said J. A. K.:

Settlement of the W. estate on C. F. and his issue male.

AND WHEREAS by a second indenture of settlement dated &c. 1850, and made between &c. the lands and hereditaments situated in the county of B., forming the greater part of the freehold hereditaments constituting the W. estate, a particular of which estate, including the copyhold portion thereof, is contained in the second schedule hereto, were appointed and limited To the use of the said J. A. K. deceased for his life without impeachment of waste, with remainder To the use of the said C. F. for his life without impeachment of waste, with remainder To the use of the first and other sons of the said C. F. successively according to seniority in tail male with remainders over, And the said indenture contained the usual powers of sale and exchange and the usual trusts for reinvestment of money arising thereby in the purchase of other lands to be conveyed to the uses thereinbefore limited, And by the same settlement the said J. A. K. the elder, J. A. K., and C. F. covenanted that the copyhold hereditaments therein mentioned parcel of the manor of X. which are included with the freehold hereditaments lastly hereinbefore mentioned in the particular contained in the second schedule hereto, should be surrendered To the use of the said T. B. and J. G., their heirs and assigns, Upon trusts corresponding to the limitations of the freehold hereditaments thereinbefore settled, And by the same settlement it was declared that the said T. B. and J. G. should stand possessed of the sum of £3000 Consolidated £3 per cent. Annuities which had been transferred into their joint names as therein mentioned upon the same trusts as money to arise from sales and exchanges under the powers of sale and exchange thereinbefore contained:

[*Recital that the copyhold hereditaments covenanted to be*

surrendered by the lastly recited indenture were never surrendered, but were then vested in the surviving devisee of the last tenant on the Rolls.]

And whereas by an indenture dated &c. [*appointment of jointure and charge of portions by C. F. under the powers in the last settlement.*]:

Appointment of a jointure and portions by C. F.

And whereas there has been issue of the said C. F., an eldest son, the said G. B. F., and two daughters, and no other children:

Issue of C. F.

And whereas the said G. B. F. attained his age of twenty-one years on &c.:

And whereas sales and exchanges of freehold hereditaments comprised in the secondly recited settlement have taken place under the powers of sale and exchange therein contained, and the said sum of £3000 Consolidated £3 per cent. Annuities was also sold some time since and therewith divers hereditaments have been purchased and conveyed to the uses of the secondly recited settlement, and there now remains vested in the said T. B. and J. G., as trustees of the powers of sale and exchange contained in the same settlement, the sum of £2000, being the sum of that amount forming a charge upon the H. estate as mentioned in the third schedule hereto, and which sum is now held on the trusts by the secondly recited settlement declared of the money to arise under the powers of sale and exchange therein contained:

Sales and exchanges under second settlement.

And whereas the W. estate or some part thereof is now subject to the incumbrances specified in the fourth schedule hereto, including a mortgage for securing £7000 and interest vested in T. H. as surviving trustee of the settlement dated &c. made on his marriage with L. F., his present wife, and which sum in the events which have happened now belongs to the said C. F. absolutely, subject to the life interest of the said L. F. therein if she should survive him:

And whereas by an indenture of disentail dated &c. 1876, and made between the said C. F. of the first part, the said G. B. F. of the second part, and H. L. of the third part, enrolled and also entered on the Rolls of the said

Disentailing assurance of the W. estate.

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manor of &c. as a disentailing assurance, the said G. B. F., with the consent of the said C. F. as protector, granted all the freehold hereditaments then subject either at law or in equity to the subsisting limitations of the secondly recited settlement unto the said H. L. and his heirs, subject to limitations having priority to the estate in tail male of the said G. B. F. but freed from that estate and all other estates tail and limitations over, To such uses and in such manner as the said C. F. and G. B. F. should by deed, revocable or irrevocable, from time to time or at any time appoint, and in default of appointment To the previously subsisting uses, AND by the indenture now in recital the said G. B. F. with the consent of the said C. F. as protector granted and the said C. F. granted and confirmed all the copyhold hereditaments parcel of the manor of &c. and covenanted to be surrendered by the secondly recited settlement, and all other (if any) the copyhold hereditaments which had become subject to the subsisting limitations of the same settlement unto the said H. L., his heirs and assigns, freed from all estates in tail male or in tail of the said C. F. and G. B. F., and from all remainders over, To the uses and subject to the powers and provisions which under the secondly recited settlement and the conveyance made by the preceding witnessing part of the indenture now in recital would immediately on the execution of the indenture now in recital be subsisting concerning the hereditaments comprised in the secondly recited settlement, AND by the said indenture now in recital the said G. B. F., with the consent of the said C. F. assigned all the moneys, stocks, funds, securities, and personal estate then held on the trusts of the secondly recited settlement, or liable to be invested in the purchase of land to be settled to the subsisting uses declared by that settlement unto the said H. L., his executors and administrators, subject to all trusts, rights, and interests having priority to the estate in tail male of the said G. B. F., but freed from that estate and from all other estates tail of the said G. B. F., and from all limitations over, Upon such trusts as the said

C. F. and G. B. F. should by deed, revocable or irrevocable, from time to time or at any time jointly appoint, and in default of appointment UPON the previously subsisting trusts:

Disentailing assurance of the H. estate.

And whereas by a second indenture of disentail dated &c. 1877, and made between the said J. A. K. of the first part, the said C. F. of the second part, the said G. B. F. of the third part, and N. L. of the fourth part [*Recital of similar disentail of freeholds, copyholds, and personal funds comprised in the first recited settlement by G. B. F. with the consent of J. A. K., C. F. also joining to convey, subject to the life estate of J. A. K. and the remainders to his issue male, To uses giving a joint power of appointment to J. A. K., C. F., and G. B. F.*]:

Agreement for settlement.

And whereas it has been agreed between the said J. A. K., C. F., and G. B. F. that such appointments, conveyances, assignment, and settlement, should be made as hereinafter contained:

First testatum. Appointment of freehold part of H. estate by J. A. K., C. F., and G. B. F.

NOW THIS INDENTURE FIRSTLY WITNESSETH that in pursuance of the said agreement and in consideration of the premises and in exercise of the power contained in the secondly recited disentailing assurance, and of all other powers, the said J. A. K., C. F., and G. B. F. AS SETTLORS do hereby jointly, and each of them AS SETTLOR doth hereby appoint that

All those the manors or reputed manors of &c., and also all such of the lands and hereditaments in the county of &c., a particular whereof is contained in the first part of the first schedule hereto as are of freehold tenure (being the freehold portion of the said H. estate now subject to the limitations of the first recited settlement) and all the lands and hereditaments to be purchased with the said sum of £10,600 £3 per cent. Reduced Annuities, or with any money subject to the trusts of the first recited settlement, and all other (if any) the freehold manors, lands, and hereditaments which immediately before the execution of the secondly recited disentailing assurance were subject to the then subsisting limitations of the first recited settlement, shall, subject to the limitations having priority to

the joint power of appointment by the said secondly recited disentailing assurance given to the said J. A. K., C. F., and G. B. F., and subject also to the incumbrances mentioned in the third schedule hereto, except so far as the same are not hereinafter directed to sink into the hereditaments charged therewith, henceforth remain and be

TO THE USES upon the trusts and subject to the powers and provisions hereinafter declared concerning the same premises.

Second testatum. Conveyance by J. A. K. of freeholds intermixed with H. estate.

AND THIS INDENTURE SECONDLY WITNESSETH that in further pursuance of the said agreement and for the considerations aforesaid, the said J. A. K. AS SETTLOR hereby conveys unto the said J. D. and J. J. R.

All such of the messuages, lands, and hereditaments, a particular whereof is contained in the second part of the first schedule hereto, as are of freehold tenure (being the freehold portion now belonging to the said J. A. K. absolutely of the H. estate), and also all such (if any) of the freehold hereditaments comprised in the first part of the first schedule hereto as are not subject to the subsisting limitations of the first recited settlement,

Habendum.

TO HOLD unto the said J. D. and J. J. R. in fee simple To the uses upon the trusts and subject to the powers and provisions which immediately before the execution of these presents were under the first recited settlement subsisting or capable of taking effect with respect to the freehold premises appointed by the first witnessing part of these presents in priority to the joint power of appointment by the secondly recited disentailing assurance given to the said J. A. K., C. F., and G. B. F., but so as not to increase or multiply charges, and after the determination of the limitations hereinbefore declared by reference as aforesaid, and in the meantime subject thereto To the uses upon the trusts and subject to the powers and provisions hereinafter declared concerning the same.

Third testatum. Appointment of freehold part of W. estate.

AND THIS INDENTURE THIRDLY WITNESSETH that in further pursuance of the said agreement, and for the considerations aforesaid, and in exercise of the power contained

in the first recited disentailing assurance, and of all other powers the said C. F. and G. B. F. AS SETTLORS Do jointly and each of them AS SETTLOR doth hereby appoint that

ALL those the manors, or reputed manors, of H. R. &c., and all those the advowsons of the rectories of &c., and also all such of the messuages, lands, rent-charges in lieu of tithes and hereditaments in the county of &c., a particular whereof is contained in the second schedule hereto, as are of freehold tenure (being the freehold portion of the W. estate), And all other if any the freehold lands and hereditaments which immediately before the execution of the first recited disentailing assurance were subject to the then subsisting limitations of the secondly recited settlement, shall henceforth remain and be, but discharged, except so far as regards the life interest of the said L. F. therein, from the said mortgage debt of £7000, and subject to such life interest, and subject also to the other incumbrances mentioned in the fourth schedule hereto to affect the said W. estate.

Uses.

TO THE USES upon the trusts and subject to the powers and provisions hereinafter declared concerning the same premises.

Fourth testatum. Conveyance by C. F. and G. B. F. of W. estate free from charges.

AND THIS INDENTURE FOURTHLY WITNESSETH that in further pursuance of the said agreement, and for the considerations aforesaid, the said C. F. AS SETTLOR hereby conveys, and the said G. B. F. AS SETTLOR releases and confirms unto the said J. D. and J. J. R. All the premises lastly hereinbefore appointed, and all other if any the freehold lands and hereditaments comprised in the second schedule hereto,

Habendum.

TO HOLD unto the said J. D. and J. J. R. in fee simple discharged, except as to the aforesaid life interest therein, from the said sum of £7000 hereinbefore mentioned, and also discharged from all powers of the said C. F. to charge any jointure or any further sum for portions of any child or children of his, and from all other rights and powers limited to the said C. F. by the secondly recited settlement or annexed to or exercisable by him during the continuance of his life estate thereunder

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To THE USES upon the trusts and subject to the powers and provisions hereinafter declared concerning the same premises:

Uses of the settlement.

AND IT IS HEREBY DECLARED that the several appointments and conveyances hereinbefore contained shall operate and enure, but subject as to the premises appointed and granted by first and second witnessing parts of these presents to the limitations hereinbefore mentioned or declared by reference affecting the same, To the uses upon the trusts and subject to the powers and provisions following, that is to say, As to the manor of W. and all other the premises forming part of the said W. estate appointed and conveyed by the third and fourth witnessing parts of these presents, To the use that the said G. B. F. may henceforth [*receive a rent-charge during joint lives of himself and C. F. and a further rent-charge on marriage.*]

As to W. estate,

Rent charge to G. B. F.

As to T. house and grounds To use of G. A. K., the wife of J. A. K. for life.

AND as to the mansion-house called T., situate in &c., together with the buildings, offices, gardens, and ornamental grounds, and about acres of pasture land usually occupied therewith, being a portion of the freehold hereditaments appointed by the first witnessing part of these presents and comprised in the first part of the first schedule hereto, To THE USE of G. A. K., the wife of the said J. A. K., during her life, And subject as aforesaid

As to H. estate,

As to all the premises appointed and conveyed by the first and second witnessing parts of these presents (including the said mansion and premises limited to the said G. A. K. for her life as aforesaid) To THE USE that if the said J. A. K. should die and there should be a failure of his issue male in the lifetime of the said C. F., then that the said G. B. F. may thenceforth [*receive a further rent-charge during the joint lives of himself and C. F.*] AND AS TO all the premises hereinbefore appointed and conveyed, but subject to the limitations hereinbefore contained affecting the same respectively

Further rent-charge to G. B. F.

As to both estates,

C. F. for life

To THE USE of the said C. F. during his life without impeachment of waste, with remainder

G. B. F. for life

To THE USE of the said G. B. F. during his life without impeachment of waste, with remainder To the use of the

first and other sons of the said G. B. F. successively according to seniority in tail male [*here follow similar limitations to brothers of G. B. F. and their issue male, and other persons in strict settlement.*]

His sons in tail male.

AND IT IS HEREBY DECLARED that (except as to the aforesaid present wife of the said C. F. to whom no further jointure shall be appointed under this present power) every person (except the said J. A. K.) hereby made tenant for life of the said premises hereinbefore appointed and conveyed respectively or any part thereof [*Power to tenants for life to jointure wives, adapting Form No.* 12].

Power to tenants for life except J. A. K. to jointure.

[*Power for C. F. to charge portions for issue by an after taken wife, Form No.* 11].

AND IT IS HEREBY DECLARED (*a*) that to the extent of any power in the said C. F. to charge portions which may have been hereby extinguished, the aforesaid power shall be deemed and taken to be in substitution for and replacement of such extinguished power.

PROVIDED ALWAYS, that notwithstanding the provision hereinbefore contained restricting the amount of jointure rent-charges payable at any one time, the said G. B. F. may in like manner as hereinbefore provided with respect to the jointure rent-charges hereinbefore authorized to be appointed, appoint by way of jointure to any woman with whom he may marry for her life or any less period, all or any part of the respective rent-charges which he himself if living and married would have been entitled to receive under these presents. Provided always that any jointure rent-charge to which any such woman may subsequently become entitled, under the general power of jointuring hereinbefore contained, shall be deemed a satisfaction of the jointure rent-charge or rent-charges to which she may be entitled under the power last aforesaid.

Power to G. B. F. to charge jointure equal to his rent-charges.

[*Power for tenants for life except J. A. R. and C. F. to charge portions, Form No.* 13, *and other settlement clauses and powers as desired, see foregoing precedents and forms.*]

(*a*) The object of this is to avoid extra succession duty.

SETTLEMENTS.

No. XVIII.

Fifth testatum. Appointment of copyhold part of H. estate. Parcels.

AND THIS INDENTURE FIFTHLY WITNESSETH that in further pursuance of the said agreement and for the considerations aforesaid, and in exercise of the power contained in the secondly recited disentailing assurance and of all other powers, the said J. A. K., C. F., and G. B. F., do jointly AS SETTLORS and each of them doth AS SETTLOR hereby appoint that

All such of the lands and hereditaments, a particular whereof is contained in the first part of the first schedule hereto, as are of copyhold tenure (being the copyhold portion of the said H. estate which is now subject to the limitations of the first recited settlement) and all other if any the copyhold hereditaments which immediately before the execution of the secondly recited disentailing assurance were subject to the then subsisting limitations of that settlement (subject nevertheless to all limitations affecting the same premises in priority to the joint power of appointment by the last mentioned disentailing assurance given to the said J. A. K., C. F., and G. B. F., and also subject to all such of the incumbrances mentioned in the third schedule hereto as affect the same copyhold premises) shall henceforth remain and be held and shall be surrendered

Uses.

TO THE USE of or otherwise duly vested in the said J. D. and J. J. R. their heirs and assigns UPON trusts and subject to powers and provisions corresponding as nearly as may be with the uses, trusts, powers, and provisions hereinbefore declared concerning the freehold premises appointed by the first witnessing part of these presents as the different tenure of the premises will permit, but so as not to increase or multiply charges.

Sixth testatum. Covenant by J. A. K. to surrender copyholds intermixed with H. estate.

AND THIS INDENTURE SIXTHLY WITNESSETH that in further pursuance of the said agreement, and for the considerations aforesaid, the said J. A. K. hereby covenants with the said J. D. and J. J. R., and also with each of them the said C. F. and G. B. F. that he the said J. A. K. his heirs or assigns will forthwith cause to be surrendered

ALL such of the lands and hereditaments, a particular

whereof is contained in the second part of the first schedule hereto, as are of copyhold tenure (being the copyhold portion of the H. estate which now belongs to the said J. A. K. absolutely), and all other if any the copyhold hereditaments comprised in the first schedule hereto, and not subject to the subsisting limitations of the first recited settlement

Uses.

TO THE USE of the said J. D. and J. J. R., and their heirs according to the respective customs of the manors of which the same premises respectively are parcel

UPON trusts and subject to powers and provisions as nearly corresponding with the uses, trusts, powers and provisions hereinbefore declared concerning the freehold premises comprised in the second part of the first schedule hereto and hereinbefore conveyed, forming portion of the H. estate as the different tenure of the premises will permit, but not so as to increase or multiply charges.

Seventh witnessing part.

AND THIS INDENTURE SEVENTHLY WITNESSETH that in further pursuance of the said agreement, and for the considerations aforesaid, and in exercise of the power contained in the first recited disentailing assurance, and of all other powers the said C. F. and G. B. F. AS SETTLORS do jointly and each of them AS SETTLOR doth hereby appoint, and the said C. F. hereby grants, releases, and declares that

Appointment by C. F. and G. B. F. of copyhold part of H. estate.

Parcels.

All such of the lands and hereditaments a particular whereof is contained in the second schedule hereto as are of copyhold tenure (being the copyhold portions of the W. estate), and all other (if any) the copyhold hereditaments which immediately before the execution of the first recited disentailing assurance were subject to the then subsisting limitations of the secondly recited settlement, shall, subject to such of the incumbrances mentioned in the fourth schedule hereto as affect the same, henceforth go and be held and shall be surrendered to or otherwise duly vested in the said J. D. and J. J. R. their heirs and assigns

Trusts.

UPON trusts and subject to powers and provisions corresponding as nearly with the uses, trusts, powers, and provisions hereinbefore declared concerning the free-

hold hereditaments appointed by the third witnessing part of these presents as the different tenure of the premises and the rules of law and equity will permit, but not so as to increase or multiply charges.

As to extinguishment of customary estate.

PROVIDED always, that notwithstanding the covenants and appointments hereinbefore contained whereby it is provided that all the aforesaid copyhold premises should be vested in the said J. D. and J. J. R., it is nevertheless hereby agreed that when and as it shall be found convenient and practicable, such of the said copyhold premises or any other copyhold hereditaments held on the trusts of these presents as shall be parcel of any manor subject to the limitations of these presents, and as shall under the trusts hereby declared of such copyhold premises be subject in equity to limitations identical with the legal limitations subsisting under these presents with respect to the same manor, shall by the person or persons in whom the same copyhold hereditaments may for the time being be vested, and upon the request of the person who shall be entitled to the possession or to the receipt of the rents and profits thereof be surrendered into the hands of the Lord of the Manor of which the same are parcel, and shall be thereupon demised by him for a term to a trustee upon trust for himself the said Lord, and the persons entitled under the legal limitations herein contained of the same manor, or shall be otherwise so dealt with as not to be capable at any time thereafter of being regranted to hold by copy of Court Roll to the intent that the copyhold tenure thereof may thereby merge and be extinguished in the freehold of the manor.

Eighth testatum. Appointment of personal funds.

AND THIS INDENTURE EIGHTLY WITNESSETH that in further pursuance of the said agreement, and for the considerations aforesaid, and in exercise of the power contained in the secondly recited disentailing assurance, and of all other powers, the said J. A. K., C. F., and G. B. F., AS SETTLORS, Do jointly and each of them, AS SETTLOR, doth hereby appoint that all that the said sum of £10,600 £3 per cent. Reduced Annuities now standing in the names of the said T. B. and J. D. on the trusts

affecting money arising under the powers of sale and exchange contained in the first recited settlement shall, subject to the trusts affecting the same under the first recited settlement and having priority to the joint power of appointment by the last mentioned disentailing assurance given to the said J. A. K., C. F., and G. B. F., henceforth go and be held and (if then remaining uninvested in the purchase of land under the said trusts) be transferred and paid to the said J. D. and J. J. R., their executors, administrators, or assigns, Upon the same trusts and subject to the same powers and provisions as capital money arising under the Settled Land Act from the premises appointed and conveyed by the first and second witnessing parts of these presents, but not so as to increase or multiply charges.

Transfer of funds to new trustees.

AND IT IS HEREBY DECLARED that if and when all the subsisting limitations of the first and secondly recited settlements shall have determined or have become incapable of taking effect, the said sum of £10,600 Reduced Annuities, and any other moneys or funds then remaining in the hands of the trustees or trustee of those settlements respectively, shall be by them or him paid and transferred to the trustees or trustee of these presents, to be by such trustees or trustee held upon the trusts hereinbefore declared of the said sum of £10,600 Reduced Annuities.

Ninth testatum. Assignment by C. F. of mortgage debt of £2000 on H. estate.

AND THIS INDENTURE NINTHLY WITNESSETH that in further pursuance of the said agreement, and for the considerations aforesaid, the said C. F. Doth hereby, AS SETTLOR, assign unto the said J. D. and J. J. R.

All that the said mortgage debt of £2000 secured to the said C. F., as mentioned in the third schedule hereto

Habendum.

TO HOLD unto the said J. D. and J. J. R. Upon the same trusts and subject to the same powers and provisions as capital money arising under the Settled Land Act from the premises appointed and conveyed by the third and fourth witnessing parts of these presents.

Tenth testatum. Mortgage debt of J. A. K. to sink.

AND THIS INDENTURE TENTHLY WITNESSETH that in further pursuance of the said agreement, and for the considerations aforesaid, it is hereby agreed and declared,

and the said J. A. K. hereby directs, that unless he shall by any deed or by will or codicil specially referring to and expressing an intention in this behalf appoint to the contrary, and in the meantime until and in default of any such appointment to the contrary, the said sum of £8000 specified in the third schedule hereto to be charged on the H. estate, and to belong to the said J. A. K., shall sink into and cease to be raisable out of the premises charged therewith to the intent that the said premises may, in the absence of any appointment to the contrary as aforesaid, be henceforth absolutely discharged therefrom.

Direction to pay costs.

AND IT IS HEREBY DECLARED that the said J. D. and J. J. R., or the survivor of them or other the trustees or trustee of these presents may and they and he are hereby required upon the request in writing of the said C. F. and G. B. F., or the survivor of them, out of any capital money arising under the Settled Land Act from the hereditaments comprised in the second schedule hereto, or out of any other money for the time being held on similar trusts, to pay all the costs, charges, and expenses of and incidental to the preparation, and execution, and due completion of the several disentailing assurances hereinbefore recited, and these presents and any deeds of release deemed proper to be given to the trustees of the recited settlements, or any of them, or of any other act or arrangement preparatory to or consequent upon or connected with the settlement hereby made, and the statement in writing of the said C. F. and G. B. F., or of the survivor of them, as to the amount of such costs, charges, and expenses shall be a conclusive authority to the said trustees or trustee to pay such amount, and shall exonerate the said trustees or trustee from making any inquiry as to the propriety of paying the same, and from all liability on account thereof.

In witness, &c.

THE FIRST SCHEDULE above referred to.

Part 1.

Particular of freeholds and copyholds forming the H. estate.

Part 2.

Particular of freeholds and copyholds belonging to J. A. K. absolutely.

THE SECOND SCHEDULE above referred to.

Particulars of the freehold and copyhold hereditaments forming the W. estate.

THE THIRD SCHEDULE above referred to.

Shewing the subsisting charges on the H. estate.

Amount of charge immediately after the settlement of 1850.	Under what deed charged.	Name of estate or lands charged.	To whom due at the date of settlement of 1850.	Amount now due.	To whom now due.
£8000	1845	K. & M. Farms	Z	£8000	R. & S. in trust for J. A. K.
£3000	1845	R. Farm (also other charges)	X	£2000	C. F.

THE FOURTH SCHEDULE above referred to.

Shewing the subsisting charges on the W. estate.

Amount of charge immediately after the settlement of 1850.	Under what deed charged.	Name of estate or property charged.	To whom due at the date of the settlement of 1850.	Amount now due.	To whom now due.
£7000	1844	K. Farm (freehold) (also other charges)	W. E.	£7000	T. H. in trust for C. F. subject to life interest of his wife L. F.

SETTLEMENTS.

No. XIX.

ANTE-NUPTIAL APPOINTMENT of a JOINTURE and PORTIONS by a tenant for life under powers in a settlement.

APPOINTMENT OF JOINTURE AND PORTIONS.

Parties.

THIS INDENTURE made &c. Between G. B. F. of &c. [*husband*] of the first part, Jane C. of &c. spinster [*wife*] of the second part, and X. of &c. and Y. of &c. of the third part. Supplemental to an Indenture dated &c., and made &c. [*last Precedent*], hereinafter called the principal indenture.

Recitals.

Agreement for marriage.

Whereas a marriage has been agreed upon and is intended to be solemnized between the said G. B. F. and Jane C.:

Death of first tenant for life and his wife.

And whereas the said J. A. K. died without issue on &c., and G. A. K. his wife died on &c, and the said C. F. died on &c.:

Agreement for settlement.

And whereas upon the treaty for the said marriage it was agreed that the said G. B. F. should make such settlement as hereinafter appearing.

First testatum.

Appointment of jointure.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement in this behalf, and in consideration of the said intended marriage, the said G. B. F. in exercise of the power for this purpose conferred on him by the principal indenture and of every other power enabling him and AS SETTLOR DOTH by this deed irrevocably APPOINT that all the hereditaments now subject to the subsisting limitations of the principal indenture shall henceforth remain and be

TO THE USE that the said Jane C., in case the said marriage should be solemnized and she should survive the said G. B. F., may receive during the residue of her life the yearly rent-charge of £ to be issuing out of all the said hereditaments, and to commence from the death of the said G. B. F. and to be considered as accruing from day to day, but to be paid by equal half-yearly payments, the first of such payments to be made at the end of six calendar months after the death of the said G. B. F. if the said Jane C. shall then be living.

Second testatum.

Charge of portions.

AND THIS INDENTURE ALSO WITNESSETH that in further pursuance of the said agreement and in consideration of

the said intended marriage, the said G. B. F. in exercise of the power for this purpose conferred on him by the principal indenture, and of every other power enabling him and AS SETTLOR DOTH hereby irrevocably CHARGE all the hereditaments now subject to the subsisting limitations of the principal indenture (but subject and without prejudice to the jointure rent-charge hereinbefore limited and the remedies for recovery thereof) with the payment of the principal sums and interest and other money hereinafter directed to be raised under the trusts of the term hereinafter limited,

Appointment of term.

AND DOTH also hereby APPOINT That all the said hereditaments shall (subject and without prejudice as aforesaid) remain and be TO THE USE of the said X. and Y., their executors and administrators for the term of 800 years to commence from the death of the said G. B. F. without impeachment of waste, UPON TRUST if there should be any child or children of the said G. B. F. by the said Jane C. [*add if desired* or any after taken wife or wives] who being [*continue and adapt Form No.* 9, *and refer to the principal indenture and the premises thereby settled.*]

[*Power for G. B. F. during his life to appoint new trustees, Form No.* 21.]

In Witness, &c.

CONVEYANCE ON TRUST FOR SALE in contemplation of marriage (*a*).

No. XX.

CONVEYANCE ON TRUST FOR SALE.

THIS INDENTURE made &c. between R. W. of &c. of the first part, H. A. of &c. spinster of the second part, and R. N. of &c. and R. L. of &c. hereinafter called the trustees of the third part.

Parties.

WITNESSETH that in pursuance of an agreement made on the treaty for the marriage which is intended to be

Testatum. Conveyance of freeholds.

(*a*) This conveyance and the settlement there referred to of even date together form a settlement within the meaning of the S. L. A., s. 63.

SETTLEMENTS. No. XX.

solemnized between the said R. W. and H. A., the said R. W. AS SETTLOR hereby conveys unto the trustees

All those several pieces of land described in the several tenants' leases thereof mentioned in the schedule hereto, being parts of the lands called N. situated in the parishes of &c. or one of them in the county of &c.: except such mines and minerals and powers of working mines and minerals as were excepted and reserved to W. L. his heirs and assigns by the conveyance of the said premises to the said R. W. dated &c.

Except mines.

Habendum.

TO HOLD unto the trustees in fee simple, To the use of the said R. W. in fee simple until the solemnization of the said intended marriage, And after the solemnization thereof To the use of the trustees in fee simple Upon trust upon the request in writing of the said R. W. during his life, and after his death upon the request in writing of the said H. A. during her life, And after the death of the survivor of them at the discretion of the trustees or trustee for the time being of these presents hereinafter called the trustees or trustee, to sell the premises hereby conveyed (*a*).

AND IT IS HEREBY DECLARED that the trustees or trustee shall receive the moneys which shall arise from such sale, and after paying or retaining thereout the costs and expenses attending such sale shall stand possessed of the residue of the said moneys and also of the rents and profits of the premises until sale Upon the trusts and subject to the powers and provisions declared concerning the same by an indenture intended to bear even date with these presents and to be made between the same persons as are parties to these presents, and in the same order and under which trusts (*b*) the said R. W.

(*a*) This is a sufficient trust for sale: see Conveyancing Act, 1881, s. 35.

(*b*) On a sale the deed of even date will be retained by the trustees. It is therefore expedient in this deed, which will belong to a purchaser, to shew the effect of the trusts of the proceeds of sale, as under the Settled Land Act, the tenant for life is the proper person to sell or lease

No. XX.

is tenant for life, and after his death the said H. A. becomes tenant for life of the proceeds of sale, and after the death of both the capital becomes held in trust for their issue.

Power of leasing.

AND IT IS HEREBY DECLARED that after the death of the survivor of the said R. W. and H. A. (*a*) the trustees or trustee shall have the same powers of leasing the premises or so much thereof as shall for the time being remain unsold as they or he would have under the Settled Land Act, if they together or he were tenant for life thereof within the meaning of that Act.

In Witness, &c.

THE SCHEDULE above referred to.

Dates of leases for 99 years.	Names of lessees.	Quantity square yards.	Dates of commencement of terms.	Yearly rents.		

No. XXI.

CONVEYANCE BY TENANT FOR LIFE UNDER LAST PRECEDENT.

CONVEYANCE of FREEHOLDS by TENANT FOR LIFE under a SETTLEMENT ON TRUST FOR SALE (*last precedent*).

Parties.

THIS INDENTURE made &c. between R. W. of &c. [*tenant for life*] of the first part, R. N. of &c. and R. L. of &c. [*trustees*] of the second part, and X. Y. of &c. [*purchaser*] of third part.

Recitals.

Settlement.

Whereas by an indenture dated &c. and made between the said R. W. of the first part, H. A. of the second part, and the said R. N. and R. L. of the third part (being a conveyance made in consideration of the marriage then

(ss. 3, 6, 63), and the trustees cannot sell or lease without his consent: see s. 56 (2).

(*a*) As to leasing by the husband or wife as tenant for life, see last note.

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intended and since solemnized between the said R. W. and H. A.) the several pieces of land hereinafter conveyed, Except the mines and minerals and the powers of working the same therein excepted, were conveyed, To the use of the said R. N. and R. L. in fee simple after the solemnization of the said marriage, Upon trust to sell the same at the request in writing of the said R. W., And to stand possessed of the net proceeds of such sale, and also of the rents and profits of the premises until sale, Upon the trusts and subject to the powers and provisions declared concerning the same by an indenture therein referred to bearing even date therewith, under which trusts the said R. W. is tenant for life of the proceeds of the sale:

Agreement for sale.

And whereas the said R. W. as tenant for life of the said proceeds of sale has agreed to sell at the price of £ to the said X. Y. for an estate in fee simple in possession free from incumbrances, the lands and hereditaments hereinafter described, except the mines and minerals thereunder and powers of working excepted in the recited indenture, but subject as to the premises affected thereby to the respective leases mentioned in the schedule hereto, and the said R. N. and R. L. have agreed to join in these presents as hereinafter appearing.

Testatum conveyance.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of £ upon the execution of these presents paid to the said R. N. and R. L. as such trustees as aforesaid, by the said X. Y., the receipt whereof the said R. N. and R. L. hereby acknowledge, the said R. W. in exercise of the power conferred on him by the Settled Land Act, and AS BENEFICIAL OWNER hereby conveys, and the said R. N. and R. L. AS TRUSTEES hereby convey and conform Unto the said X. Y.

Parcels.

All those pieces of land described in the several leases thereof mentioned in the schedule hereto, being parts of the lands called N. situated in the parishes of &c. or one of them in the county of Except all the mines and minerals in or under the premises, and the power of working the same reserved by the recited indenture,

Habendum.

TO HOLD UNTO AND TO THE USE of the said X. Y. in fee simple, Subject as to the respective premises affected thereby to the leases specified in the schedule hereto.

[*Add proviso restricting the tenant for life's implied covenants for title, as in Precedent No. II., p.* 113, *and acknowledgment by the trustees as to production of the settlement, and (if all the settled lands are not sold) also of the recited conveyance.*]

In Witness, &c.

THE SCHEDULE ABOVE REFERRED TO [*Similar to the schedule to last precedent*].

As the trustees concur to receive the purchase-money they are also made to concur in conveying.

SECT. 6.

WILLS.

WILLS.

No. XXII.

WILL of a married man devising and bequeathing freeholds, copyholds, and leaseholds in STRICT SETTLEMENT. Limitation of residence and rent-charge to wife. NAME and ARMS clause. Powers for tenants for life to JOINTURE, LIMIT RENT-CHARGES to HUSBANDS, and charge PORTIONS. CHARGE of DEBTS and legacies in aid of personalty. Bequest of HEIRLOOMS. Residue to first tenant for life or in tail male attaining twenty-one. Clauses applicable to S. L. A. and C. A. 1881.

I of &c. [*commencement of will, Form No.* 34].

Appointment of executors and trustees.

[*Appointment of executors and trustees of will and for purposes of S. L. A. and s.* 42 *of C. A.* 1881, *Form No.* 36; *declaration that capital money may be paid to, and all the powers of S. L. A. exercised by a single trustee, adapt Form No.* 18.]

Appointment of guardians.

I appoint my wife during her life, and after her death the trustees or trustee, guardian or guardians of my infant children.

Confirmation of marriage settlement.

I confirm the settlement made on my marriage whereby my B. estate in the county of hereinafter devised, stands limited after my death to uses for securing to my wife a jointure rent-charge of £ a-year, And portions are raisable for my children other than an only or the eldest son for the time being of the said marriage and other than the heir in possession of an entailed estate at M. in the county of by which portions together with the benefits which such other children or some of them take under &c., I consider them amply provided for.

Devise of the B. and other estates.

I devise my capital messuage called B. House situated at &c., and all the lands and hereditaments situated in the several parishes of &c. in the county of or elsewhere, which I shall at my death be beneficially entitled to

for an estate of inheritance or have any general power to dispose of beneficially by will for an estate of inheritance, in manner following (that is to say): As to B. House aforesaid, and the stables, gardens, pleasure-grounds and appurtenances usually enjoyed therewith, To the use of the trustees before named, during the subsistence of the trust next hereinafter declared, Upon trust to permit my wife to occupy the same until she marries again or becomes entitled to the possession or receipt of the rents and profits of the said entailed estate at M. or dies (which shall first happen), she keeping the same house, stables, and buildings insured to the satisfaction of the trustees or trustee and in tenantable repair, and paying all rates, taxes, and assessments in respect thereof, and keeping up the gardens and pleasure-grounds,

As to B. house upon trust for wife for life or widowhood or till in possession of M. estate.

And as to all other the premises hereinbefore devised, To the use that my wife may from my death until she marries again or succeeds to the said entailed estates at M. or dies, which shall first happen, receive the yearly rent-charge of £ payable out of the same premises in addition to the said yearly rent-charge of £ under my said marriage settlement, the rent-charge hereby limited to be considered as accruing from day to day but to be paid by equal half-yearly payments, the first half-yearly payment to be made at the end of six calendar months next after my death, if my wife be then living, and has not married again, or has not succeeded to the said entailed estate,

Out of residue rent-charge to wife.

And as to all the devised premises subject as aforesaid, To the use of my first son D. B. for his life, with remainder To the use of his first and other sons successively according to seniority in tail male, with remainder To the use of the same sons successively according to seniority in tail general, with remainder To the use of his first and other daughters successively according to seniority in tail male, with remainder To the use of the same daughters successively according to seniority in tail general, with remainder To the use of my second son W. B., my third son I. B., my fourth son C. B., and any

Subject thereto

To first son for life, and his sons in tail male, and tail general,

daughters in tail male,

daughters in tail general.

Second, &c., sons for life,

With similar remainders to their issue.

other younger son or sons of mine successively according to seniority for their respective lives, with remainder immediately after the estate for life of each such second, third, fourth, and other younger sons of mine, To the use of his first and other sons in tail male and in tail general, and his first and other daughters in tail male and in tail general, successively in the same manner and order in which the premises hereinbefore devised are limited to the first and other sons and the first and other daughters of my first son the said D. B., and so that every elder son of mine and his issue successively in the manner and order aforesaid, shall take before any younger son of mine and his issue, with remainder To the use of my first daughter B. B., my second daughter M. B., my third daughter J. B., and any other younger daughter or daughters of mine successively according to seniority for their respective lives, with remainder immediately after the estate for life of each daughter of mine, To the use of her first and other sons in tail male and in tail general, and her first and other daughters in tail male and in tail general successively in the same manner and order in which the said premises are hereinbefore limited to the first and other sons, and the first and other daughters of my said first son, And so that every elder daughter of mine and her issue successively in the manner and order aforesaid shall take before any younger daughter of mine and her issue, with remainder To the use of my wife for her life, with remainder To the use of my own right heirs.

With similar remainders to daughters and their issue.

To widow for life.

Testator's right heirs.

Life estates without impeachment of waste.

I declare that every estate for life under the limitations aforesaid shall be without impeachment of waste.

[*Clause cutting down estates of tenants in tail male or in tail born in testator's life to estates for life, Form No.* 38].

Females restrained from anticipation.

I declare that the estate for life hereby limited to every female shall be without power of anticipation during any coverture (*a*).

(*a*) The Married Women's Property Act, 1882, renders it unnecessary to limit the estates of women to a trustee or otherwise for their separate use: see ss. 1 and 2.

[*Name and arms clause, adapt Form No.* 8.]

I empower every person hereby made tenant for life of the devised premises, except my said wife [*Power to tenants for life except testator's wife to jointure wives and limit rent-charges to husbands, adapt Form No.* 12].

Power to limit rent-charges to wives and husbands.

I empower every person hereby made tenant for life of the devised premises, except my wife [*Power to charge portions, adapt Form No.* 13].

And charge portions.

I declare that in case my residuary real and personal estate hereinafter devised and bequeathed shall be insufficient to pay my funeral and testamentary expenses and debts, and the legacies and annuities hereinafter or by any codicil hereto bequeathed, the trustees or trustee may, notwithstanding any of the uses and trusts hereinbefore limited, or to be limited under any of the powers herein contained, and in priority thereto, but subject to any lease made under any statutory power in such behalf, raise by mortgage of the devised premises, or any of them, except the house and grounds of B., and upon such terms as the trustees or trustee shall think fit, any money which they or he shall deem required to make up the amount by which my residuary real and personal estate shall be insufficient to pay my funeral and testamentary expenses, debts, legacies, and annuities, but so that annuities shall be paid as they become due out of rents and profits, and not by raising a capital sum to provide for the same, And upon any such mortgage to appoint the hereditaments so to be mortgaged to the mortgagee or mortgagees, or any other person or persons, either in fee or for any term of years, with or without impeachment of waste, by way of mortgage for securing payment of the money raised and interest thereon, and with such powers as may be thought expedient, and for such purposes as aforesaid to execute and do all such assurances and things as the trustees or trustee shall think fit, And no mortgagee shall be concerned to inquire whether any money is wanted for the purposes of my will or whether more than is wanted is raised.

Power to raise money for debts and legacies.

[*Add declaration that leases may be made without notice*

Clauses applicable to S. L. A.

WILLS.

No. XXII.

required by S. L. A. and other clauses applicable to that Act as required: see and adapt General Forms, pp. 100–103.]

Enlarged power of investment.

And I declare that capital money arising under the Settled Land Act, and applicable for the purposes of my will, and surplus rents and profits arising under the 42nd section of the Conveyancing and Law of Property Act, 1881, may be laid out in any of the investments in which my residuary personal estate is hereinafter authorized to be laid out, with power to vary such investments.

[*Destination of accumulations during minorities, Form No.* 19;

Devise of copyholds and leaseholds upon trusts corresponding to uses of freeholds.

Devise and bequest of copyholds and leaseholds upon trusts corresponding to uses of freeholds, Forms Nos. 39 *and* 40; *and trusts for renewal of leases, adapt Form No.* 16, *if required.*]

Bequest of chattels as heirlooms.

I bequeath to the trustees hereinbefore named all the furniture, plate, plated goods, linen, china, glass, books, pictures, prints, statues, sculptures, articles of vertu, and other articles of household ornament or use, except consumable stores, which shall at my decease be in or about my said mansion-house of B., Upon trust to allow the same to be used and enjoyed by my wife so long as she shall be entitled to the use of my said mansion-house under the devise hereinbefore contained, And subject to such trust To allow all the same articles to be used and enjoyed, so far as the law permits, by the person or persons who [*continue trusts of heirlooms Form No.* 41.]

Bequests of personal estate.

[*Specific and pecuniary bequests of personal estate; residuary bequest of personal estate upon trusts for conversion and payment of funeral and testamentary expenses, debts, and legacies, and investment of residue.*]

Power to apply income of residue for maintenance, &c.

I direct the trustees or trustee to pay or apply out of the income of the investments for the time being representing my residuary personal estate, such sums as they or he shall think fit for or towards the maintenance or education of any person entitled in immediate expectancy to my residuary personal estate under the trust hereinafter declared during his or her minority, and to pay such sum or sums as the trustees or trustee shall think fit, not

exceeding in each case the annual sum of £ for or towards the maintenance or education of any child of mine other than any child of mine so entitled in immediate expectancy during his or her minority, and without regard to any other provision for him or her, And I declare that the trustees or trustee may either themselves, or himself, pay or apply the sums hereby authorized to be paid or applied for the maintenance or education of any minor, or may pay the same to the guardian or guardians of such minor for the purpose aforesaid, without seeing to the application thereof, And subject to the trusts hereinbefore declared, I direct that the trustees or trustee shall stand possessed of my residuary personal estate, and the investments for the time being representing the same, and all accumulations (if any), and the income thereof, or so much thereof respectively as shall not have been paid or applied under any of the trusts or powers hereby declared, In trust for the first person other than my said wife, who becomes entitled to the possession or receipt of the rents and profits of the said premises hereinbefore devised for an estate for life or in tail male, and attains the age of twenty-one years.

Residue for first tenant for life or in tail male who attains twenty-one.

I declare that my wife, so long as she continues my widow, and after her death or marriage, which shall first happen, the person for the time being entitled to the possession or the receipt of the rents and profits of the premises hereinbefore devised in settlement if of full age, may appoint new trustees of my will.

Power to appoint new trustees.

In witness, &c. (*a*)

[*Attestation clause, Form No.* 42.]

No. XXIII.

WILL devising two estates to different uses in strict settlement WITH SHIFTING CLAUSE. Powers applic-

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(*a*) The date is at the commencement of the will, and should not be repeated in the testimonium.

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able to S. L. A. and s. 42 of C. A. 1881, and other powers and provisions.

I of &c. [*commencement of will, Form No.* 34; *Appointment of executors and trustees for the purposes of will and of S. L. A. and s.* 42 *of Conv. A.* 1881, *Form No.* 36.]

Devise of M. estate.

I DEVISE all the manors or reputed manors of &c., in the county of , and also my freehold messuage called in the same county, and all other the lands and hereditaments purchased by me from &c., and all other the freehold lands and hereditaments situated in the parishes of in the said county of or in some or one of them, which at my death I shall be beneficially entitled to for an estate of inheritance, or have any general power to dispose of beneficially by will for an estate of inheritance (all which hereditaments are hereinafter referred to as "The M. estate")

To second and younger sons and their issue.

To the use of my second son J. T. for his life, without impeachment of waste, with remainder To the use of my grandsons, being the first and other sons of the said J. T. successively according to seniority in tail male, with remainder To the use of all my sons hereafter to be born, successively according to seniority for their respective lives without impeachment of waste, with remainder immediately after the estate for life of each such son of mine, To the use of my grandsons, being the first and other sons of the same son of mine, successively according to seniority in tail male, with remainder To the use of my eldest son W. T. for his life, without impeachment of waste, with remainder To the use of my grandsons, being the first and other sons of the said W. T. according to seniority in tail male, with remainder To the uses upon the trusts, and subject to the powers and provisions hereinafter declared in remainder after the deaths of all my sons born or to be born, and the failure or determination of the estates limited to their issue male concerning the hereditaments forming the A. estate hereinafter devised in settlement,

PROVIDED and except always, and I hereby direct that the powers to appoint jointure rent-charges and to charge sums for portions for younger children hereinafter limited with respect to the A. estate shall not apply to nor enable any jointure rent-charge or sum for portions for younger children to be charged on the M. estate,

Shifting clause.

PROVIDED ALSO, and I hereby declare that in case the said J. T. or any of his issue male or any other younger son of mine, or any issue male of any such younger son shall, or if of full age would, under the limitations hereinafter contained of the A. estate, become entitled to the actual possession or the actual receipt of the rents and profits of the same estate, then and so often as the same shall happen any estate in the M. estate hereinbefore limited to a younger son of mine, or to the issue male of a younger son of mine who or any of whose issue male shall so become entitled to the A. estate as aforesaid, shall absolutely cease as if the younger son who or whose issue male shall so become entitled had then died without ever having had any issue male, And from and after such cesser of the estate of the son and the estates of the issue male (if any) of the son who or whose issue male shall so become entitled as aforesaid, I DEVISE the said M. estate To the uses upon the trusts and subject to the powers and provisions to, upon, and subject to which the same estate would have stood limited and settled in case the son who or any of whose issue male shall so become entitled to the A. estate as aforesaid had actually died at the time when he or any of his issue male shall so become entitled as aforesaid without ever having had any issue male.

Devise of copyholds upon corresponding trusts.

I DEVISE all the copyhold and customary lands and hereditaments situated in the aforesaid parishes of &c., or any of them which I shall at my death be beneficially entitled to or have any general power to dispose of beneficially by will, Unto and To the use of the trustees hereinbefore named and their heirs according to the custom of any manor of which the same may be parcel, and at and under the rents, fines, heriots, suits, and services

therefor respectively due and of right accustomed Upon trusts and subject to powers and provisions as nearly corresponding with the uses, trusts, powers, and provisions hereinbefore limited concerning the M. estate as the different tenure of the premises will permit.

Devise of leaseholds upon corresponding trusts.

I DEVISE and BEQUEATH all the leasehold lands and hereditaments, whether holden for lives or for terms of years, absolute or determinable with life situated in the aforesaid parishes of &c., or any of them which I shall at my death be beneficially entitled to, or have any general power to dispose of beneficially by will unto the trustees hereinbefore named for all my estate, term, or interest therein at my death, Upon trust out of the rents and profits thereof to pay the rents payable in respect of the premises, and to observe and perform the covenants and conditions which on the part of the lessees ought to be observed and performed, And subject thereto Upon such trusts [*continue trusts of leaseholds to correspond with uses of freeholds, Form No.* 40; *trusts for renewals, Form No.* 16].

Devise of the A. estate.

I DEVISE all the manors or reputed manors of in the county of , and the advowsons of &c. in the same county, and the mansion-house of A. Park, with the park, garden, and lands occupied therewith, and all the messuages, farms, tithes, rent-charges in lieu of tithes, and hereditaments situated in the several parishes of in the said county of , and all other the manors, advowsons, messuages, lands, and hereditaments which as adjunct to the said A. estate I shall at my death be beneficially entitled to for an estate of inheritance or have any general power to dispose of beneficially by will for an estate of inheritance (all which hereditaments lastly hereinbefore devised are in this my will referred to as "The A. Estate"),

To eldest and other sons and their issue successively.

To the use of my eldest son, the said W. T., for his life without impeachment of waste, And after his death To the use of my grandsons being the first or other sons of the said W. T. successively according to seniority

in tail male, with remainder To the use of my second son the said J. T. for his life without impeachment of waste, with remainder To the use of my grandsons being the first and other sons of the said J. T. successively according to seniority in tail male, with remainder To the use of all my sons hereafter to be born successively according to seniority for their respective lives without impeachment of waste, with remainder immediately after the estate for life of each such son of mine To the use of my grandsons being the first and other sons of the same son of mine successively according to seniority in tail male, with remainder To the use that all the grandsons of mine to whom estates in tail male in the A. estate are respectively hereinbefore limited may successively have and take estates in tail general in the same premises in the same order in which such grandsons respectively take estates in tail male in the same premises, with remainder To the use of the first and other daughters of the said W. T. successively according to seniority in tail male, with remainder To the use of the first and other daughters of the said J. T. successively according to seniority in tail male, with remainder To the use of the first and other daughters successively according to seniority of each of my sons hereafter to be born in tail male, and so that the first and other daughters of an elder of such sons shall always take before the first and other daughters of a younger of such sons, with remainder To the use that all my grandsons, being sons of daughters to whom estates in tail male in the A. estate are hereinbefore limited, may successively have and take estates in tail general in the same premises in the same order in which such grandsons respectively take estates in tail male in the same premises, with remainder To the use that all my granddaughters to whom estates in tail male in the A. estate are hereinbefore limited may successively have and take estates in tail general in the same premises and in the same order in which such granddaughters take estates in tail male in the same premises, with remainder To the use of my eldest daughter C. W., the wife of , Eldest and other daughters and their issue.

during her life without impeachment of waste and without power of anticipation (*a*), with remainder To the use of her first and other sons successively according to seniority in tail male, [*Similar remainders to the testator's second and other living daughters and their issue male*], with remainder To the use of all my other daughters hereafter to be born successively according to seniority for their respective lives without impeachment of waste and without power of anticipation, with remainder immediately after the estate for life of each such daughter of mine To the use of my grandsons being the first and other sons of the same daughter of mine successively according to seniority in tail male, with remainder To the use of the person or persons who at the time of the failure or determination of all the estates hereinbefore limited shall answer the description of the heir or heirs of my body, and to the heirs of his, her, or their body or respective bodies, and so that he, she, or they may take for the like estate, and if more than one in the like shares in which they would have taken by descent under a limitation to the heirs of my body, with remainder To the use of my own right heirs.

Ultimate limitation.

[*Add and adapt clause cutting down estates of tenants in tail male of the M. and the A. estates born in testator's lifetime to estates for life, Form No.* 38; *powers for tenants for life of the two estates respectively to jointure and limit rentcharges to husbands, and to charge portions, Forms Nos.* 12 *and* 13.

Destination of accumulations during minorities, Form No. 19; *but after the words* "issue inheritable under the limitations hereinbefore contained," *add* "or if the estate of the infant should during the minority determine under the shifting clause hereinbefore contained,"

For any additional powers to those of the S. L. A. and other clauses applicable to that Act, and to s. 42 *of*

(*a*) It is not necessary now to make the limitation to a trustee; the married woman takes as a *feme sole* (Married Woman's Property Act, 1882, ss. 1, 2).

C. A. 1881, *required, see and adapt General Forms, pp.* 100–103.

Power for trustees to present to livings during minorities, Form No. 20; *and to mortgage, in aid of residuary real and personal estate, the M. Estate for payment of funeral and testamentary expenses and legacies bequeathed by will or codicil, and debts not being mortgage debts secured on the A. estate, see and adapt power in last precedent, p.* 203.

Bequest of legacies, and devise and bequest of residuary real and personal estate upon trust for sale and conversion and payment of funeral and testamentary expenses and debts, including mortgage debts secured on hereditaments hereinbefore specifically devised and bequeathed, or any part thereof respectively, and legacies bequeathed by will or codicil.]

Residue.

And I direct that the trustees or trustee shall stand possessed of the net residue of such money [*from sale and conversion*] Upon the like trusts and subject to the like powers and provisions as if it were capital money arising under the Settled Land Act from the A. estate.

[*Power to tenants for life of A. estate to appoint new trustees, Form No.* 21.]

In witness &c.

SECT. 7.

NEW TRUSTEES.

MISCELLANEOUS PRECEDENTS.

No. XXIV.

NEW TRUSTEES OF SETTLEMENT OF REAL ESTATE.

APPOINTMENT of NEW TRUSTEES of a Settlement of REAL ESTATE and DECLARATION VESTING A TERM, the original number not being filled up.

Parties.

THIS INDENTURE made &c. between J. V. of &c. and S. V. his wife [*donees of the power*] of the one part, and X. of &c. and Y. of &c. [*two new trustees*] of the other part:

Recital that deed is supplemental to settlement.

Whereas these presents are supplemental to an indenture dated &c. 1870, hereinafter called the principal indenture and made between the said J. V. of the first part, the said S. V., then S. J., of the second part, H. D., William A., and the Honourable C. K. of the third part, being a settlement made in contemplation of the marriage then intended and afterwards solemnized between the said J. V. and S. V., whereby the manor, lands and hereditaments situated &c., in the county of &c., were limited after the solemnization of the said marriage To the use of the said J. V. for his life, with remainder to uses for securing to the said S. V. a jointure rent-charge of £800 a year, and subject thereto to the use of the said H. D., William A., and C. K., for the term of 100 years, to be computed from the decease of the said J. V., upon trusts for securing the said rent-charge, and subject to the said term and the trusts thereof To the uses thereinafter limited in strict settlement:

Death of all the trustees.

And whereas the said H. D. died on &c., the said William A. died [*recite deaths of all the trustees*]:

Desire to appoint new trustees.

And whereas the said J. V. and S. V. are desirous of appointing the said X. and Y. to be trustees of the principal indenture in the places of the said H. D., William A., and C. K., deceased:

Testatum appointment of new trustees.

NOW THIS INDENTURE WITNESSETH that the said J. V. and S. V. in exercise of the power for this purpose given

to them by the principal indenture and of every other power enabling them, Do by this deed [*state any special formalities*] appoint the said X. and Y. to be trustees of the principal indenture in the places of the said H. D., William A., and C. K., deceased, for all the purposes for which the said H. D., William A., and C. K. were by the same indenture appointed trustees.

NEW TRUSTEES. No. XXIV.

AND the said J. V. and S. V. hereby DECLARE that all the hereditaments comprised in the principal indenture and thereby limited to the use of the said H. D., William A., and C. K., for the said term of 100 years, and all other lands and hereditaments, if any, which by any means whatsoever have become and are now comprised in the same term, and the estate and interest therein of the said H. D., William A., and C. K., except the legal estate or interest in any copyhold or customary lands and hereditaments, shall forthwith vest in the said X. and Y. as joint tenants for the residue of the said term of 100 years, and for all other (if any) the estate or interest of the said H. D., William A., and C. K. in the said premises respectively, except as aforesaid, Upon the trusts affecting the same under the principal indenture.

Declaration vesting trust property.

In witness &c.

For precedents on the appointment, retirement, and discharge of trustees reference may be made to the precedents in the work published by the authors on the Conveyancing Act of 1881, which may readily be adapted to settlements or wills of real estate, see in particular Precedents XXXVII. p. 250; XLI. p. 256; XLII. p. 257, of the second edition.

Other precedents.

DISENTAILING ASSURANCE by tenant in tail in possession of land and money and securities subject to be laid out in land (without recitals).

DISENTAILING DEED. No. XXV.

THIS INDENTURE made &c. between T. B. of &c., [*tenant in tail*], the eldest son of A. B. deceased, of the one part, and X. Y. of &c. of the other part,

Parties.

WITNESSETH that the said T. B. hereby conveys and disposes of unto the said X. Y. All and singular the

First testatum conveyance.

DISENTAILING DEED.

No. XXV.

manors or lordships, and reputed manors or lordships, advowsons, rectories, messuages, lands, rents, tithes, rent-charges in lieu of tithes, rents and other hereditaments whatsoever and wheresoever and parts or shares thereof respectively (other than hereditaments of copyhold tenure held at the will of the lord, but including hereditaments of customary freehold tenure) (*a*), to which the said T. B. is entitled for any estate in tail male or in tail in possession,

Habendum.

TO HOLD unto the said X. Y. in fee simple, discharged from all estates in tail male or in tail of the said T. B., and all limitations to take effect after the determination, or in defeasance of such estates in tail male or in tail or any of them, To the use of the said T. B. in fee simple.

Second testatum assignment of money and securities.

AND THIS INDENTURE ALSO WITNESSETH that the said T. B. hereby assigns and disposes of unto the said X. Y. all moneys, stocks, funds, and securities which, or the proceeds of which, are or may be liable to be laid out in the purchase of lands or hereditaments to be settled on the said T. B. for any estate in tail male or in tail in possession,

Habendum

TO HOLD unto the said X. Y. absolutely, discharged from all estates in tail male or in tail of the said T. B., and all limitations to take effect after the determination or in defeasance of such estates in tail male or in tail or any of them, And also discharged from all liability to investment in the purchase of lands or hereditaments, IN TRUST for the said T. B. absolutely as personal estate.

In witness &c.

This deed must be enrolled as a disentailing assurance within six calendar months after its execution, under 3 & 4 Will. 4, c. 74, s. 41.

Disentail of copyholds.

Where an equitable estate tail in copyholds is to be barred the deed

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Bar of estate tail in customary freeholds.

(*a*) As to customary freeholds, see *Reg.* v. *Ingleton*, 4 Jurist, 700, which decides that customary freeholds passing by deed and admittance are not within the provisions of 3 & 4 Will. 4, c. 74 as to copyholds. It seems to follow that an estate tail in land of this tenure must be barred in the same way as an estate tail in ordinary freeholds, at least where the estate tail is equitable, and where the estate tail is legal no forfeiture will be caused by including them in a disentail by deed.

may be in the same form as the precedent in the text, but describing the property as— DISENTAILING DEED.

No. XXV.

All the copyhold or customary lands and hereditaments parcel of the manor of &c., in the county of &c., which are now vested in any person other than the said T. B. as tenant on the rolls of the said manor, but in trust for the said T. B., for any estate in tail male or in tail in possession.

The deed barring the equitable estate must be entered on the manor rolls within six calendar months: (*Gibbons* v. *Snape*, 32 Beav. 130; 1 D. J. & S. 621).

Where the tenant in tail of copyholds is tenant on the rolls the estate can only be barred by surrender. An equitable estate tail may be barred either by deed or surrender (3 & 4 Will. 4, c. 74, ss. 50, 53). This surrender is made "to the use of [*the tenant in tail*] his heirs and assigns," and is entered on the rolls, but no admittance is required thereon. Bar of equitable estate tail in copyholds.

DISENTAILING ASSURANCE of Land, and Money and stock subject to be laid out in land to be settled.

No. XXVI.

THIS INDENTURE made the day of 18 , between A. F. B. of &c. [*tenant for life*], of the first part, R. G. B., eldest son of the said A. F. B. [*tenant in tail*], of the second part, and T. L. of &c., of the third part: Parties.

Whereas by an indenture of settlement dated &c., and made between &c., the manor, park, and mansion of P. in the county of D., the advowson of T., and the impropriate rectory of M. in the same county, and the other lands and hereditaments in the same county in the indenture now in recital mentioned, were by the said W. B. and A. F. B. appointed and conveyed, and also by the said Mary B. (for the purpose of surrendering a jointure rent-charge charged thereon in her favour) released subject to the several incumbrances mentioned in the schedule to the indenture now in recital to affect the premises or parts thereof, but freed from the said jointure rent-charge and from all powers vested in the said W. B. Recital of settlement

DISENTAILING DEED.

No. XXVI.

under an indenture of settlement therein recited, To the use of the said C. G. for the term of one thousand years without impeachment of waste, upon trusts which have since been satisfied, and subject thereto and to rent-charges limited to the said A. F. B. during the joint lives of himself and the said W. B., and to a term for securing the same, To the use of the said D. F. for the term of one hundred years if the said W. B. should so long live, without impeachment of waste, upon certain trusts hereinafter declared and since satisfied, with remainder To the use of the said W. B. during his life, with remainder (subject to a jointure rent-charge to the said Mary B. for her life if she should survive the said W. B., which has now ceased by her death, and to a term for securing the same) To the use of the said A. F. B. during his life without impeachment of waste, with remainder To the use of the first and other sons of the said A. F. B. successively in tail male, with remainders over: And the said indenture contained powers for the said A. F. B. to charge a jointure and also portions for his younger children which have been partially exercised, and powers to create other charges on the said hereditaments thereby assured, including a power to raise money by mortgage to be applied in the purchase of lands and hereditaments to be conveyed to the uses declared by the said indenture concerning the hereditaments thereby conveyed: And a power of sale and exchange was thereby given to the said D. F. and W. D.: And the said indenture contained a direction that the money arising by any sale or exchange should be laid out in the purchase of other hereditaments to be conveyed and settled to the uses declared by the indenture now in recital concerning the lands and hereditaments thereby conveyed and settled:

Marriage of tenant for life.

And whereas in the said month of &c., and after the execution of the aforesaid settlement, the said A. F. B. married Jane S. and there has been issue of the said marriage an eldest son, the said R. G. B., who attained his age of twenty-one years on &c., and two other children:

Birth of tenant in tail.

DISENTAILING DEED.

No. XXVI.

And whereas the said W. B. died on &c., and the said Mary B., his wife, died on &c.:

And whereas the Corporation of M. under an Act of Parliament enabling them, and incorporating the Lands Clauses Consolidation Act, required and took for the purposes of their said Act certain lands and hereditaments, part of the hereditaments comprised in the said settlement, and the purchase-money for the same, amounting to £ , was paid into Court under the Lands Clauses Consolidation Act, and invested in Consolidated £3 per cent. Annuities, part of which has since been sold and the proceeds have been invested in the purchase of lands and hereditaments, which have been duly conveyed to the uses of the said recited settlement, and there is now standing in the name of the Chancery Paymaster to the credit of Ex parte &c., a balance of £ Consolidated £3 per cent. Annuities:

Death of first tenant for life and jointress.

Sale and payment into Court.

And whereas divers sales have been made under the power of sale contained in the said recited settlement, and with the money arising thereby, and with money raised for the purpose under the power contained in the said settlement, other lands and hereditaments have been purchased and conveyed to the uses of the said settlement, and there now remains in the hands of the said D. F. and W. D., as trustees of the power of sale and exchange contained in the said settlement, the sum of £ liable to be invested in the purchase of land to be settled to the uses of the said settlement:

Sales under power.

And whereas the said A. F. B. and R. G. B. are desirous of executing such disentailing assurance as hereinafter contained.

NOW THIS INDENTURE WITNESSETH that in consideration of the premises the said R. G. B. (with the consent of the said A. F. B. as protector of the settlement testified by his executing these presents) hereby conveys and disposes of, and the said A. F. B. also conveys, releases, and confirms unto the said T. L.

First testatum. Conveyance of freeholds.

ALL the manors, reputed manors, advowsons, rectories, messuages, lands, tithes, rent-charges in lieu of tithes,

Parcels.

DISENTAILING DEED.

No. XXVI.

and other hereditaments comprised in and expressed to be assured by the hereinbefore recited settlement (*a*), or which by purchase, exchange, allotment, or by any other means have become and are now subject to the subsisting limitations of the same settlement:

Habendum.

TO HOLD unto the said T. L. in fee simple Subject (exclusively and in exoneration of the moneys, stocks, funds, and securities hereinafter mentioned and assigned (*b*)) to the said jointure rent-charge charged on the said premises in favour of the said Jane B., wife of the said A. F. B., and to the sum raisable for portions for her younger children by the said A. F. B., and to the terms of years and other securities for raising the said jointure and portions, and also Subject to such of the incumbrances mentioned in the schedule to the said recited settlement as now remain undischarged, and to the incumbrances created under the powers of the said settlement and now subsisting, But freed from the life estate of the said A. F. B. under the said settlement, and all power of charging and other powers annexed to or exerciseable during the continuance of such life estate, and also freed from the estate in tail male of the said R. G. B. under the said settlement, and all other estates in tail male or in tail (if any) of the said R. G. B. or the said A. F. B., and all estates, rights, interests, and powers to take effect after the determination or in defeazance of such estates in tail male or in tail or any of them:

Uses.

TO SUCH USES, upon such trusts, and in such manner generally as the said A. F. B. and R. G. B. shall from time to time or at any time by any deed or deeds revocable or irrevocable jointly appoint, and in default of and until and subject to any such appointment TO THE USES,

(*a*) A disentailing deed need not contain any description of the property, in fact it is better omitted, as the cost of enrolment is increased, and also useful information is given facilitating loans to the son on his reversion without the consent of the father.

(*b*) The estates being large and personal funds small, this exoneration enables the Court and the trustees to part with these funds safely and properly notwithstanding the charge of jointure and portions.

upon the trusts, and subject to the powers and provisions which immediately before the execution of these presents were subsisting with reference to the said premises hereby conveyed.

Disentailing Deed.

No. XXVI.

AND THIS INDENTURE ALSO WITNESSETH that in consideration of the premises the said R. G. B. (with the consent of the said A. F. B. as protector of the settlement testified as aforesaid) hereby assigns and disposes of, and the said A. F. B. also assigns, releases, and confirms unto the said T. L.

Second testatum. Assignment of personalty.

ALL that the said sum of £ sterling now in the hands of the said D. F. and W. D. as trustees of the power of sale and exchange contained in the said settlement, And also all that the said sum of £ Consolidated £3 per cent. Annuities now standing in the name of the Chancery Paymaster to the credit of Ex parte &c., and all other, if any, the moneys, stocks, funds, and securities which, or the produce of which, are or is liable to be laid out in the purchase of lands and hereditaments to be conveyed and settled to the subsisting limitations of the said settlement:

Parcels.

TO HAVE AND RECEIVE the same unto the said T. L. discharged so far as may be from the jointure rent-charge of the said Jane B. and the portions for her younger children by the said A. F. B., and from the other incumbrances before mentioned, and so that the same may be charged exclusively on the hereditaments and premises hereinbefore conveyed, in exoneration of the moneys and premises hereinbefore assigned and freed from the life estate of the said A. F. B. under the said settlement, and all powers of charging and other powers annexed to or exerciseable during the continuance of such life estate, and also freed from the said estate in tail male of the said R. G. B. under the said settlement, and from all other estates in tail male or in tail (if any) of the said R. G. B. or the said A. F. B., and all estates, rights, interests, and powers to take effect after the determination or in defeazance of such estates in tail male, or in tail, or any of them, and also freed from all liability to be invested

Habendum.

Disentailing Deed.

No. XXVI.

Trusts.

in the purchase of lands or hereditaments, and so freed In trust for the said R. G. B. absolutely.

In witness &c.

As to enrolment of this deed see n. to last precedent, p. 214.

Agreement for Sale of Heirlooms.

No. XXVII.

AGREEMENT by TENANT FOR LIFE for sale of HEIRLOOMS.

MEMORANDUM of agreement made this day of 1883 between W. M. of &c. [*tenant for life*] (hereinafter called the vendor) of the one part, and S. W. of &c. (hereinafter called the purchaser) of the other part.

Recital of will.

Whereas under the will dated &c. 1850, and proved on &c. of P. M. deceased who died on &c., the vendor is tenant for life in possession of certain settled lands in the county of W. and of certain chattels or heirlooms, including the pictures and china mentioned in the schedule hereto now in the mansion house of L. in the said county, which were bequeathed to the trustees of the said will Upon trust so as to devolve with the said settled lands until a tenant in tail by purchase should attain the age of twenty-one years,

Present trustees.

And whereas H. M. of &c. and P. K. of &c. are now under the said will trustees with power of sale of the said settled lands,

Notice of intention to sell.

And whereas on the day of due notice was given as required by s. 45 of the Settled Land Act 1882 to the said trustees and their solicitor of the intention of the vendor to make the sale hereby contracted to be made:

Now the vendor, so far as relates to the acts and deeds on his part to be performed, hereby agrees with the purchaser, and the purchaser, so far as relates to the acts and deeds on his part to be performed, hereby agrees with the vendor as follows—that is to say,

Agreement for sale.

1. The vendor will sell and the purchaser will purchase, at the price of £ , the pictures and china mentioned in the schedule hereto.

AGREEMENT FOR SALE OF HEIRLOOMS.

No. XXVII.

2. The said purchase-money and any interest payable thereon shall on the day of 1883 be paid into the bank of Messrs. to the credit of the said H. M. and P. K., or other the person or persons (if any) entitled to receive the same under the order of the Court sanctioning the sale hereby agreed to be made, and a receipt for the same signed by the said H. M. and P. K. or other person or persons aforesaid shall be delivered to the purchaser by the bankers, and upon production of such receipt the said pictures and china shall be delivered to the purchaser or to any person authorised by him in writing to receive the same at the mansion house of L. aforesaid, and shall be removed therefrom at his own risk.

Payment of purchase-money.

3. If the purchaser shall not pay the said purchase-money on the day last aforesaid in manner hereinbefore provided, the same shall bear interest at the rate of 5 per cent. per annum from that day to the day of payment thereof, which interest shall be paid into the bank and to the credit aforesaid at the same time as the principal purchase-money.

Interest on purchase-money.

4. The purchaser or his solicitor shall be entitled to inspect at the office of Messrs. W. & Co. in a copy of the testator's will and of the inventory of heirlooms held on the trusts of the said will, which inventory includes the said pictures and china, but shall not require any abstract or copy of such will or inventory and shall not require any other evidence of the title of the vendor as tenant for life of the said heirlooms.

As to the title to be shewn.

5. The vendor will forthwith apply for and endeavour to obtain an order of the Chancery Division of the High Court of Justice sanctioning the sale hereby agreed to be made of the said pictures and china (*a*), And in case an order sanctioning such sale should not be obtained before the day of 188 this agreement shall become void.

As to obtaining order of Court.

6. The agreement hereby made shall not become bind-

(*a*) See S. L. A. s. 37 (3).

AGREEMENT FOR SALE OF HEIRLOOMS.

No. XXVII.

ing on the vendor until one calendar month from the said day of (*a*) has expired without any proceedings being taken to prevent the sale hereby agreed on.

In witness &c.

THE SCHEDULE ABOVE REFERRED TO.

[*To contain a description of the pictures and china.*]

(*a*) The date of giving notice (see S. L. A. s. 45).

CHAPTER IV.

RULES OF THE SUPREME COURT UNDER THE SETTLED LAND ACT, 1882.

December, 1882.

1. The expression "the Act" used in these rules means the Settled Land Act, 1882.

Words defined by the Act when used in these rules have the same meanings as in the Act.

The expression "the tenant for life" includes the tenant for life as defined by the Act, and any person having the powers of a tenant for life under the Act.

2. All applications to the Court under the Act may be made by summons in chambers; and if in any case a petition shall be presented without the direction of the judge, no further costs shall be allowed than would be allowed upon a summons.

3. The forms in the Appendix to these rules are to be followed as far as possible, with such modification as the circumstances require. All summonses, petitions, affidavits, and other proceedings under the Act are to be entitled according to Form I. in the Appendix.

4. The persons to be served with notice of applications to the Court shall, in the first instance, be as follows:—

In the case of applications by the tenant for life under sections 15 and 34, the trustees.

In the case of applications under section 38, the trustees (if any), and the tenant for life if not the applicant.

In the case of applications under section 44, the tenant for life, or the trustees, as the case may be.

No other person shall in the first instance be served. Except as hereinbefore provided where an application

under the Act is made by any person other than the tenant for life, the tenant for life alone shall be served in the first instance.

5. Except in the cases mentioned in the last rule, applications by a tenant for life shall not in the first instance be served on any person.

6. The judge may require notice of any application under the Act to be served upon such persons as he thinks fit, and may give all necessary directions as to the persons (if any) to be served, and such directions may be added to or varied from time to time as the case may require. Where a petition is presented, the petitioner may, after the petition has been filed, apply by summons in Chambers (Appendix, Form XXIII.) for directions with regard to the persons on whom the petition ought to be served. If any person not already served is directed to be served with notice of an application, the application shall stand over generally, or until such time as the judge directs. The judge may in any particular case, upon such terms (if any) as he thinks fit, dispense with service upon any person upon whom, under these rules, or under any direction of the judge, any application is to be served.

7. It shall be sufficient upon any application under the Act to verify by affidavit the title of the tenant for life and trustees or other persons interested in the application unless the judge in any particular case requires further evidence. Such affidavit may be in the form or to the effect of Form No. VIII. in the Appendix.

8. Any sale authorized or directed by the Court under the Act, shall be carried into effect out of Court, unless the judge shall otherwise order, and generally in such manner as the judge may direct.

9. Where the Court authorises generally the tenant for life to make from time to time leases or grants for building or mining purposes under section 10 of the Act, the order shall not direct any particular lease or grant to be settled or approved by the judge unless the judge shall consider that there is some special reason why such lease

or grant should be settled or approved by him. Where the Court authorises any such lease or grant in any particular case, or where the Court authorises a lease under section 15 of the Act, the order may either approve a lease or grant already prepared or may direct that the lease or grant shall contain conditions specified in the order or such conditions as may be approved by the judge at chambers without directing the lease or grant to be settled by the judge.

10. Any person directed by the tenant for life to pay into Court any capital money arising under the Act may apply by summons at chambers for leave to pay the money into Court. (Appendix Forms IX., X., XI.)

11. The summons shall be supported by an affidavit setting forth:—

1. The name and address of the person desiring to make the payment.
2. The place where he is to be served with notice of any proceeding relating to the money.
3. The amount of money to be paid into Court and the account to the credit of which it is to be placed.
4. The name and address of the tenant for life under the settlement by whose direction the money is to be paid into Court.
5. The short particulars of the transaction in respect of which the money is payable.

12. The order made upon the summons for payment into Court, may contain directions for investment of the money on any securities authorised by section 21, subsection 1 of the Act, and for payment of the dividends to the tenant for life, either forthwith or upon production of the consent in writing of the applicant; the signature to such consent, to be verified by the affidavit of a solicitor. But if the transaction in respect of which the money arises, is not completed at the date of payment into Court, the money shall not, without the consent of the applicant, be ordered to be invested in any securities other than those upon which cash under the control of the Court may be invested.

13. Money paid into Court under the Act shall be paid to an account, to be entitled in the matter of the settlement, with a short description of the mode in which the money arises if it is necessary or desirable to identify it, and in the matter of the Act. (Appendix Forms IX., X., and XI.).

14. Any person paying into Court any capital money arising under the Act shall be entitled first to deduct the costs of paying the money into Court.

15. In all cases not provided for by the Act or these rules, the existing practice of the Court as to costs and otherwise, so far as the same may be applicable, shall apply to proceedings under the Act.

16. The fees and allowances to solicitors of the Court in respect to proceedings under the Act shall be those provided by the Rules of the Supreme Courts as to costs for the time being in force, so far as they are applicable to such proceedings.

17. The fees to be taken by the officers of the Court in respect to proceedings under the Act shall be those provided by the Rules of the Supreme Court as to Court fees for the time being in force, so far as they are applicable to such proceedings.

18. These rules shall come into operation from and after the 31st December, 1882.

19. These rules may be cited as the Settled Land Act Rules, 1882.

(Signed) SELBORNE, C.
COLERIDGE, L.C.J.
G. JESSEL, M.R.
NATH. LINDLEY, L.J.
H. MANISTY, J.
E. FRY, J.

APPENDIX.

FORM I.

TITLE OF PROCEEDINGS.

In the High Court of Justice,
Chancery Division,
Vice-Chancellor Bacon,
or
Mr. Justice Chitty,
[*or other judge before whom the application is to be heard.*]

In the matter of the estate [*or*, of the timber upon the estate], situate at in the county of , [*or*, of the chattels], settled by a settlement made by an indenture dated the day of , and made between [*or*, by the Will of dated *or as the case may be.*]

And in the matter of the Settled Land Act, 1882.

FORM II.

FORMAL PART OF SUMMONS.

Title as in Form I.

Let all parties concerned attend at my chambers at the Royal Courts of Justice on day, the day of 18 ; at o'clock in the forenoon, on the hearing of an application

(*a.*) On the part of *A. B.*, the tenant for life [*or*, tenant in tail, *or as the case may be, describing the nature of the applicant's estate*] under the above-mentioned settlement.

Or, (*b.*) On the part of *A. B.*, the tenant for life (*or as the case may be*) under the above-mentioned settlement an infant, by *X. Y.*, his testamentary guardian [*or*, guardian appointed by order dated the *or*, next friend].

Or, (*c.*) On the part of *C. D.* and *E. F.*, the trustees of the

above-mentioned settlement for the purposes of the above-mentioned Act.

Or, (*d.*) On the part of *G. H.*, the tenant for life in remainder [*or*, tenant in tail in remainder, *or as the case may be describing the applicant's interest*] under the above-mentioned settlement subject to the life interest of *A. B.* [*or as the case may be*].

Or, (*e.*) On the part of *I. J.*, the purchaser of the lands [*or*, the timber upon the lands, *or* chattels, *or as the case may be*] settled by the above-mentioned settlement.

Or, (*f.*) On the part of *I. J.*, the lessee under a mining lease dated the 18 , granted under the powers of the above-mentioned Act of the mines and minerals under the lands settled by the above-mentioned settlement.

Or, (*g.*) On the part of *I. J.*, the mortgagee under a mortgage intended to be created under section 18 of the above-mentioned Act of the lands settled by the above-mentioned settlement.

Or, (*h.*) On the part of *K. L.*, interested under the contract hereinafter mentioned.

Dated the day of 18

This summons was taken out by of , solicitor for the applicant.

To

(*Add the names of the persons* (*if any*) *on whom the summons is to be served.*)

Form III.

Summons under Section 10 for General Leasing Powers.

Title and formal parts as in Forms I. and II. *a* or *b*.

1. That the applicant [*or in the case of an infant* that the said *X. Y.* during the infancy of the said *A. B.*], and each of his successors in title [*or in the case of an infant*, each of the successors in title of the said *A. B.*], being a tenant for life or having the powers of a tenant for life under the above-mentioned Act, may pursuant to section 10 of the said Act be authorised from time to time to make building [*or* mining] leases of the lands comprised in the said settlement for the term of years [*or* in perpetuity] on the conditions

specified in the said Act [*or* on other conditions than those specified in sections 7 to 9 of the said Act.]

2. That the costs of this application may be directed to be taxed as between solicitor and client, and that the same when taxed may be paid out of the property subject to the said settlement, and that for that purpose all necessary directions may be given.

Note.—The proposed conditions ought not, except in simple cases to be set forth in the summons.

FORM IV.

SUMMONS UNDER SECTIONS 10 OR 15 FOR AUTHORITY TO GRANT A PARTICULAR LEASE WHERE THE TENANT FOR LIFE HAS ENTERED INTO A CONTRACT.

Title as in Form I.

Formal parts as in Form II. *a* or *b*.

1. That the conditional contract, dated the 18 , and made between the applicant [*or* the said *X. Y.*] of the one part and of the other part, for a [building *or* mining] lease to the said of the hereditaments therein mentioned for the term, and upon the conditions therein stated, may, pursuant to section 10 [*or* 15] of the above-mentioned Act be approved, and that the said *A. B.* [*or X. Y.*] may be authorized to execute a lease in pursuance of the said contract.

2. (*Add application for costs as in Form III.* 2.)

FORM V.

SUMMONS UNDER SECTIONS 10 OR 15 FOR AUTHORITY TO GRANT A PARTICULAR LEASE WHEN NO CONTRACT HAS BEEN ENTERED INTO.

Title as in Form I.

Formal parts as in Form II. *a* or *b*.

1. That the [building *or* mining] lease intended to be granted to of the lands [*or* of the mansion-house, &c.] settled by the said settlement may, pursuant to section 10

[*or* 15] of the above-mentioned Act be approved, and that the applicant [*or* the said *X. Y.*] may be authorised to execute the same.

2. (*Add application for costs as in Form III.* 2.)

FORM VI.

SUMMONS UNDER SECTIONS 15, 35, OR 37 FOR A SALE OUT OF COURT OF THE PRINCIPAL MANSION-HOUSE, AND DEMESNES, OR OF TIMBER OR CHATTELS.

Title as in Form I.

Formal parts as in Form II. *a* or *b*.

1. That the applicant [*or in the case of an infant* the said *X. Y.*] may be authorised to sell the principal mansion-house [*or* the timber ripe and fit for cutting] on the land [*or* the furniture and chattels] settled by the above-mentioned settlement in such manner and subject to such particulars, conditions, and provisions as he may think fit.

2. That the costs of this application may be taxed as between solicitor and client, and that *C. D.* and *E. F.*, the trustees of the said settlement, may be at liberty to pay the costs when taxed out of the proceeds of the said sale [*or, in the case of timber*, out of the three-fourths of the proceeds of the said sale to be set aside as capital money arising under the said Act], *or if this Form is not applicable as in Form III.* 2.

FORM VII.

SUMMONS UNDER SECTIONS 15, 35, OR 37 FOR SALE BY THE COURT OF THE PRINCIPAL MANSION-HOUSE, AND DEMESNES, OR OF TIMBER OR CHATTELS.

Title as in Form I.

Formal parts as in Form II. *a* or *b*.

1. That the principal mansion-house [*or* the timber ripe and fit for cutting] on the land [*or* the furniture and chattels] settled by the above-mentioned settlement, may be sold under the direction of the court.

2. (*Application for costs as in Form III.* 2.)

FORM VIII.

AFFIDAVIT VERIFYING TITLE.

Title as in Form I.

I of make oath and say as follows:

1. By the above-mentioned settlement the above-mentioned lands [*or* certain chattels, *shortly describing them*] stand limited to uses [*or* upon trusts] under which *A. B.* is [*or* I am] beneficially entitled in possession as tenant for life [*or* tenant in tail *or* tenant in fee simple, with an executory gift over, *or as the case may be.*]

2. (*If it is a fact.*) The said *A. B.* is an infant of the age of years or thereabouts.

3. *C. D.* of and *E. F.* of are Trustees under the said settlement, with a power of sale of the said lands [*or* with power of consent to or approval of the exercise of a power of sale of the said lands contained in the said settlement, *or* are the persons by the said settlement declared to be Trustees thereof for purposes of the above-mentioned Act.]

FORM IX.

SUMMONS UNDER SECTION 22 BY PURCHASER FOR PAYMENT INTO COURT OF PURCHASE MONEY OF SETTLED LAND, TIMBER, OR CHATTELS.

Title as in Form I.

Formal parts as in Form II. *e.*

1. That the applicant may be at liberty to pay into court to the credit of "In the matter of the settlement, dated the and made between [*or* will, &c.] proceeds of sale of the A. estate [*or as the case may be*], and in the matter of the Settled Land Act, 1882," the sum of £ on account of the purchase money of the said A. estate (*or as the case may be*) settled by the said settlement [*or* will, &c.]

2. That such directions may be given for the investment of the said sums when paid into court, and the accumulation or payment of the dividends of the securities, representing the same as the court may think proper.

FORM X.

SUMMONS UNDER SECTION 22 FOR PAYMENT INTO COURT BY LESSEE UNDER A MINING LEASE (*see* Section 11).

Title as in Form I.

Formal parts as in Form II. *f*.

1. That the applicant may be at liberty to pay into court to the credit of "In the matter of the settlement dated the and made between [*or* the will, &c.] mineral rents under lease dated the and in the matter of the Settled Land Act, 1822," the sum of £ being three-fourths [*or* one-fourth] of the rents payable by him under the said lease for the half-year ending the less £ the costs of payment into court.

2. That the applicant may be at liberty on or before the day of and the day of in every year during the term created by the said lease to pay into court to the credit aforesaid, so much of the rents payable by him under the said lease as is by section 11 of the above-mentioned Act directed to be set aside as capital money arising under the said Act after deducting therefrom the costs of payment in, the amount paid in to be verified by affidavit.

3. That the said sum of £ and all other sums to be paid into court to the credit aforesaid may be invested in the purchase of (*name the investment*) to the like credit, and that the dividends on the said when purchased may be paid to *A. B.*, the tenant for life under the above-mentioned settlement during his life or until further order.

FORM XI.

SUMMONS UNDER SECTION 22 FOR PAYMENT INTO COURT BY MORTGAGEE (*see* Section 18).

Title as in Form I.

Formal parts as in Form II. *g*.

1. That the applicant may be at liberty to pay into court to the credit of "Money advanced on mortgage of lands settled by the settlement dated the and made between [*or* the will, &c.] and in the matter of the Settled

Land Act, 1882," the sum of £ being the amount agreed to be advanced by him on mortgage of the lands comprised in the above-mentioned settlement less the costs of payment in.

2. (*Add directions for investment as in Form VIII.* 2.)

FORM XII.

SUMMONS UNDER SECTION 26 (1).

Title as in Form I.

Formal parts as in Form II. *a* or *b*.

1. That the scheme left at my chambers this day for the execution of improvements on the lands settled by the above-mentioned settlement may be approved,

2. (*Add application for costs as in Form III.* 2.)

FORM XIII.

SUMMONS UNDER SECTION 26 SUB-SECTION (2) (ii.) FOR APPOINTMENT OF AN ENGINEER OR SURVEYOR.

Title as in Form I.

Formal parts as in Form II. *a* or *b*.

1. That *M. N.* of Engineer [*or* surveyor] may be approved as engineer [*or* surveyor] for the purposes of section 26, sub-section (2) (ii.) of the above-mentioned Act.

2. (*Add application for costs as in Form III.* 2.)

FORM XIV.

NOMINATION OF AN ENGINEER OR SURVEYOR BY THE TRUSTEES.

Title as in Form I.

We *C. D.* of and *E. F.* of the Trustees of the above-mentioned settlement for the purposes of the above-mentioned Act, hereby nominate of Engineer,

[*or* surveyor], for the purposes of section 26 sub-section (2) (ii.) of the said Act.

(Signed) *C. D.*
E. F.

FORM XV.

SUMMONS UNDER SECTION 26 SUB-SECTION (2) (iii.).

Title as in Form I.

Formal parts as in Form II. *a* or *b*.

1. That *C. D.* and *E. F.* the Trustees of the above-mentioned settlement, for the purposes of the above-mentioned Act may be directed to apply the sum of £ out of the capital money arising under the said Act in their hands subject to the said settlement in payment for [*describe the work or operation*] being [*part of*] an improvement executed upon the lands subject to the said settlement pursuant to a scheme approved by the said *C. D.* and *E. F.* under the said Act.

2. (*Add application for costs as in Form III.* 2.)

FORM XVI.

SUMMONS UNDER SECTION 26, SUB-SECTION 3.

Title as in Form I.

Formal parts as in Form II. *a* or *b*.

1. That the sum of £ may be ordered to be raised out of the in court to the credit of and that the same when raised may be paid to upon his undertaking to apply the same in payment for [*describe the works or operation*] being part of an improvement executed upon the land settled by the above-mentioned settlement pursuant to the scheme approved by Order dated the

2. (*Add application for costs as in Form III.* 2.)

FORM XVII.

SUMMONS UNDER SECTION 31.

Title as in Form I.

Formal parts as in Form II. *a* or *b*.

1. That the applicant may be at liberty to enforce [*or* carry into effect *or* vary *or* rescind *as the case may be*] the contract entered into between the applicant of the one part, and of the other part.

2. Or that such directions may be given relating to the said contract as the judge may think fit.

3. (*Add application for costs as in Form III.* 2.)

FORM XVIII.

SUMMONS UNDER SECTION 34 FOR APPLICATION OF MONEY PAID FOR A LEASE OR REVERSION.

Title as in Form I.

Formal parts as in Form II., *a*, *b*, or *d*.

1. That the sum of £ being the proceeds of sale of a lease for years [*or* life *or* a reversion *or other interest describing it*] settled by the above-mentioned settlement, may, pursuant to section 34 of the above-mentioned Act, be directed to be applied for the benefit of the parties interested under the said settlement in such manner as the court may think fit.

2. (*Add application for costs as in Form III.* 2.)

FORM XIX.

SUMMONS UNDER SECTION 38 FOR THE APPOINTMENT OF NEW TRUSTEES.

Title as in Form I.

Formal parts as in Form II., *a*, *b*, *c*, or *d*.

1. That *G. H.* and *I. J.* may be appointed trustees under the above-mentioned settlement for the purposes of the above-mentioned Act.

2. (*Add application for costs as in Form III.* 2.)

FORM XX.

SUMMONS UNDER SECTION 44.

Title as in Form I.

Formal parts as in Form II., *a*, *b*, or *c*.

1. That it may be declared that (*set out the declaration required*).

2. (*Add application for costs as in Form III.*, 2, *or as the circumstances require.*)

FORM XXI.

SUMMONS UNDER SECTION 56 FOR ADVICE AND DIRECTION.

Title as in Form I.

Formal parts as in Form II., *a* to *h*.

For the opinion, advice, and direction of the Judge on the following questions:—

1. Whether
2. Whether
3. Whether

(*or if the questions involve complicated facts*)

for the opinion, advice, and direction of the Judge on the facts and questions submitted by the statement left in my chambers this day.

(*Add application for costs as in Form III.* 2.)

FORM XXII.

SUMMONS UNDER SECTION 60 FOR APPOINTMENT OF PERSONS TO EXERCISE POWERS ON BEHALF OF INFANT.

Title as in Form I.

Formal parts as in Form II. *b*.

1. That the powers conferred upon a tenant for life by sections 6 to 13, both inclusive, and sections 16 to 20, both inclusive, of the above-mentioned Act (*or such other powers as*

it is desired to exercise) may be exercised by the said on behalf of the said during his minority.

2. (*Add application for costs as in Form III.* 2.)

FORM XXIII.

SUMMONS FOR DIRECTIONS AS TO SERVICE OF A PETITION.

Title as in Form I.

Formal parts as in Form II.

That directions may be given as to the persons to be served with the petition presented in the above matter on the day of 18 .

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LONDON: PRINTED BY WILLIAM CLOWES AND SONS, LIMITED,
STAMFORD STREET AND CHARING CROSS.